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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Today's prayer will be offered by the Very Reverend Matthew William Searfoorce of the Nativity of the Holy Virgin Mary Orthodox Church in Waterbury, CT.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

O Lord God of hosts, God of our salvation, bless this legislative body with wisdom. Bless our Nation, and guide us in Your path to righteousness. Fill the hearts of these Senators with Your goodness and wisdom, and may they always follow Your path in life, and do good work for our country.

Let the words spoken by Moses to the Israelite people be applied to us: ''Be bold, stand fast, and see the salvation which is from God. The Lord will fight for you.'' O God, You are our hope, our strength, and our protection.

Let us always keep Your prayer in our hearts. ''O Lord and Master of our lives! Take away from us the spirit of laziness, despair, lust of power and idle talk;

but give rather to us the spirit of moderation, humility, patience, and love;

Yea O Lord and King, grant that we may see our own transgressions, and judge not our brothers, for blessed are You unto the ages of ages.'' Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore 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.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning, we will return to the consideration of the intelligence reform legislation. Yesterday, in addition to disposing of a number of amendments, we were able to reach an agreement that all first-degree amendments must be filed at the desk by 4 p.m. today. I thank all Senators for allowing us to take this important step toward completion of this bill.

I also continue to encourage all Senators who still desire to offer amendments to contact the bill managers this morning in order to set up a queue for their consideration. I also hope Members will be reasonable with their time requests on their respective amendments. Unfortunately, I anticipate that a large number of amendments will be filed, although we are not encouraging Members to do so.

As the Democratic leader and I mentioned yesterday, and indicated on the floor, we will be closely monitoring the progress of the bill over the next several days because we will be departing October 8. We have a large number of issues to discuss and to address, as we always do at the end of a session. Thus, we must bring this bill to closure and have a final vote on this bill in the next couple of days.

I know there are a lot of colleagues who want to come to the floor and discuss and talk on the bill and discuss their amendments, and we ask them to do so today and tomorrow. Both today and tomorrow must be very full and productive days.

As we discussed on the floor yesterday, if it looks as though we are not making adequate progress—again, we come to the floor again and again to make sure people understand we need to move this bill expeditiously—if it looks as though we are not bringing it to appropriate closure, we will consider filing cloture at the appropriate time. Again, that will allow us to continue to work on the bill and offer and debate germane amendments, but it would be just an effort to give further focus on the bill. This is clearly not a threat at all. It is just a plea in many ways for people to come to the floor now, this morning, today, to work with the managers so their amendments can be considered.

This is an extremely important bill. It is a bill that we absolutely will finish as well as the internal reorganization and oversight of this body before we leave on October 8. We do want the Senate to work its will on this bill. I know there are caucus meetings and a lot of conferences going on off the floor on the bill and bringing people up to speed with all the ramifications of the bill. We want to continue to encourage that, but the process on the floor we need to continue to move in an efficient way.

With respect to votes on Friday and Monday, the Democratic leader and I have not made announcements as to whether we will be voting. We certainly will be voting on Monday. But as to Friday, we will make announcements later today. But we need to make progress.

What we would like to do is have a number of amendments tomorrow, we hope as many as 10 amendments considered over the course of the day tomorrow—the managers will work with that as a focus—but as many amendments today and tomorrow as possible. We will have more to say on this later today. After the filing deadline is reached, we will look at the amendments we have before us, and then we will talk further about scheduling.

THANKING THE GUEST CHAPLAIN

Mr. FRIST. Mr. President, very briefly, I want to take a moment to thank

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

the Very Reverend Matthew William Searfoorce, who is with us this morning, for a truly wonderful and inspiring opening prayer.

Reverend Searfoorce comes to us from the great State of Connecticut, where he has served for the past 33 years in the One Holy Catholic and Apostolic Church there. He is currently rector at the Holy Virgin Mary Orthodox Church.

I had the opportunity to meet him through a very close personal friend of mine, Ed O'Lear, and his wonderful mother, whom I have known for the past, I guess, 34 years. It has been a tremendous friendship between me and the O'Lear family, including Ed's dad, who passed away, and his mom and Ed.

Ed has, in effect, become a member of our family and us a member of his family. So it is through that friendship that I have had the opportunity to meet the Very Reverend Searfoorce, whose prayer we very much appreciate today.

With that, Mr. President, I yield the floor and look forward to a good day and will likely be back over the course of the day as we talk about further scheduling.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

COMPLETING THE INTELLIGENCE REFORM LEGISLATION

Mr. DASCHLE. Mr. President, as we have now done several days in a row, both the majority leader and I have felt the need to impress upon our colleagues the urgency of completing our work on this bill. It is important that we maximize the next 2 days. I think my advice to the majority leader will be that we have votes on Friday unless we can specifically enumerate at least 10 amendments that can be offered and debated and considered tomorrow.

There is absolutely no reason this body, with 100 Senators, if we are serious about completing our work, cannot find the time and the effort to use tomorrow to its fullest. So I am very hopeful Senators will come to us throughout the day to volunteer their willingness to come to the floor tomorrow to offer these amendments. If that does not happen, then our only other recourse will, of course, be to have votes tomorrow and force our colleagues to use the day that otherwise will be lost.

So please let either our managers know or leadership know your intent regarding these amendments. As the majority leader noted, you have until 4 o'clock this afternoon to file your amendments. As we noted yesterday, because of the backlog of legislative counsel, we appreciate the logistical challenge this may require, but we are going to be understanding and flexible with regard to your ability to refine your amendment at that time when it is considered. We have done that before. It is important we accommodate Senators' needs to do that again this time. So I ask, on behalf of leadership in particular, that we have the cooperation of all Senators.

We had a reasonably good day yesterday, but a lot more needs to be done. We have about 300 amendments pending. Senators are going to have to be more realistic about their expectations with regard to offering amendments. It is my hope that over the course of the next several days we can find a more realistic appreciation of how many amendments there really are and what kind of time will need to be allocated to consider those amendments in the coming days.

FARM SUPPORT PROGRAMS

Mr. DASCHLE. Mr. President, before we left for the August recess, I came to the Senate floor to express my serious concerns about this administration's policies towards rural America.

On several critical issues, including disaster aid, renewable fuels, and market concentration, the decisions the President has made have been right for a very few large corporations, but wrong for the large majority of rural Americans.

And now it appears the administration will once again stand against farmers and ranchers by opposing the bipartisan disaster aid approved by the Senate 2 weeks ago. I am hopeful that given the extent of disaster all across the nation and the large bipartisan support for this aid, the administration will withdraw its opposition and agree that farmers and ranchers who are impacted by natural disasters should not be treated differently than others who are victims of hurricanes, tornadoes or floods.

Unfortunately, the pattern of neglect for rural residents has continued as the administration has made yet another decision that diminishes the importance of family farmers and ranchers.

As part of the ongoing negotiations being held by the World Trade Organization, the Bush administration has agreed to a 20-percent cut in the allowable level of farm support and safety net programs for American producers of corn, soybeans, wheat, and other crops.

Remarkably, the administration made this concession without receiving any assurances from our trading partners that American producers will get increased access to foreign markets in return. In other words, the administration has agreed to unilaterally disarm our nation's farmers.

For the owners of large corporate agribusinesses, this deal may mean increased profits. But for thousands of family farmers and ranchers, this decision deepens their insecurity, and could lead to devastating consequences the next time we enter a period of low prices.

The last time we confronted an extended period of low prices, in 1999 and 2000, our domestic support and safety net programs played a key role in helping our rural communities weather the storm.

But if the deal that the Bush administration cut had been in effect then, the consequences could have been even more devastating. We could have fallen billions of dollars short of what was necessary to provide an adequate safety net for our Nation's farmers and ranchers.

In my home State of South Dakota alone, we could have fallen short by tens of millions of dollars, cuts that could have had a crippling impact on my State's No. 1 industry, and the overall health of our rural economy.

One of the specific programs put at risk by the Bush administration's proposed cuts is the new countercyclical farm program.

Many States, including South Dakota, were pleased with this program, which pays producers when prices are low but allows no payments when prices are high. It uses a formula that updates bases and yields to the greatest extent possible, and that was a big improvement for many States. But this important countercyclical program could now be in jeopardy because of the administration's framework agreement.

For producers in South Dakota who have seen years of drought and have now suffered a large production loss due to an early frost, the President's trade negotiators have once again called into question whether this administration is willing to back up its rhetorical support of farmers, ranchers, and rural Americans with the policies that will actually make a difference for our rural economy.

South Dakotans understand the benefits of free trade, but they also understand that free trade must be fair if we are going to avoid a destructive race to the bottom. And right now, the situation confronting American producers is anything but fair.

The average worldwide tariff facing American producers is now 62 percent, while the average U.S. tariff on imported goods is only 12 percent.

With the playing field already so slanted, it is inexplicable to me that we would do anything to further tip the scales against American producers. But that is exactly what the Bush administration has done by agreeing to cut domestic farm support without getting anything concrete in return.

Even worse, the President's top agricultural negotiator has already indicated that the administration may agree to further reductions, and he has actually told the media that the cuts to domestic support programs could be as high as 50 percent.

This is no way to conduct negotiations on behalf of America's farmers and ranchers. We should be demanding mutual concessions from our trading partners, not giving up vital safety-net

programs based on some vague hope that other countries might open their markets in the future.

When I spoke about the challenges facing our rural communities back in July, I said we had a moral obligation to do right by our family farmers and ranchers. That should be our standard whenever we make decisions on agricultural policy: Are we doing right by rural America?

The administration's proposal to cut farm support and safety-net programs fails that basic test. Like so many other decisions this administration has made, it puts the interests of large agribusinesses ahead of farmers and consumers, and it threatens the future health of our rural communities.

In short, the administration's proposal does wrong by rural America.

Last month, I wrote a letter to President Bush asking him to rescind his administration's offer to cut farm support programs. Much to my disappointment, the President's top trade negotiator, Ambassador Zoellick, responded by saying that my concerns were outside the ''mainstream of American agriculture.''

Well, I have some news: In South Dakota and across rural America, selling out farmers and ranchers for the benefit of big agribusiness is not part of the mainstream.

I am also not reassured by Ambassador Zoellick's claim that, somehow, the 20-percent cuts will not actually impact our support and safety net programs.

Ambassador Zoellick has already touted these cuts as ''concessions'' that brought other nations back to the table.

So, which is it, are they concessions or not? Who is being fooled, the other 146 nations or American farmers and ranchers?

The administration can't have it both ways. Either the concessions mean something and that is what brought the negotiators to the table, or the administration fooled all our trading partners. Neither is good policy.

My experience with this administration—an administration which opposed a robust farm bill—tells me that if there is a trade deal that is bad for agriculture but good for other segments of our economy, agriculture will lose out, whether that means a 20-percent cut, or even a 50-percent cut.

And at that point, States like South Dakota, and all of rural America, will be on the short end of the stick. That is simply unacceptable.

We can do better. We can return mainstream values to our agricultural policies, and we can do right by America's heartland. It is not too late to reverse the administration's misguided agricultural and rural policies. The WTO negotiators are going back to the negotiating table early next month. They can ensure that we do not give up important safety-net programs without getting anything in return.

Those of us who stand with America's farmers and ranchers will continue to fight to ensure that they are once again treated with the dignity and respect that they not only deserve but are entitled to as the anchors of so many of our Nation's communities, and a vital part of our Nation's economy.

I yield the floor.

NATIONAL INTELLIGENCE REFORM ACT OF 2004

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 2845, which the clerk will report.

The legislative clerk read as follows:

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

Pending:

Collins Amendment No. 3705, to provide for homeland security grant coordination and simplification.

Lautenberg Amendment No. 3767, to specify that the National Intelligence Director shall serve for one or more terms of up to 5 years each.

Warner/Stevens Amendment No. 3781, to modify the requirements and authorities of the Joint Intelligence Community Council.

The PRESIDENT pro tempore. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I note that the Senator from Massachusetts is in the Chamber. I wonder if I could inquire of the Senator from Massachusetts whether he is going to be seeking recognition to speak on the bill or on another issue?

The PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. The subject matter on which I will address the Senate is related to the substance of the bill, but it is not directly going to be on the bill itself. It is related to the substance of the bill.

Ms. COLLINS. Mr. President, I would like to propound a unanimous consent request that the Senator from Massachusetts be recognized for 10 minutes, to be followed by the Senator from Oregon, Mr. SMITH, to be recognized for 10 minutes.

The PRESIDENT pro tempore. The Chair points out that under the Pastore rule, it does take unanimous consent to speak on matters other than the bill for the first 2 hours.

Mr. KENNEDY. Mr. President, I will be glad to debate that issue if the Chair is going to make a ruling on it. I maintain that the substance on which I am speaking is related to intelligence issues. If there is going to be a point of order made on substance under the Pastore rule, I would be glad to have the Chair rule and we will let the Senate vote on it.

The PRESIDENT pro tempore. There is a unanimous consent request pending before the Senate. Is there objection? Is there objection to the request of the Senator from Maine for 10 minutes for the Senator from Massachusetts and 10 minutes for the Senator from Oregon?

Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

IRAQ—SHIFTING RATIONALE

Mr. KENNEDY. Mr. President, with tonight's Presidential debate coming up, the whole Nation will be watching JOHN KERRY and George Bush debate the all important issue of why America went to war in Iraq, when Iraq was not an imminent threat, had no nuclear weapons, no persuasive links to al-Qaida, no connection to the terrorist attacks of September 11th, and no stockpiles of weapons of mass destruction.

It is now clear that from the very moment President Bush took office, Iraq was his highest priority as unfinished business from the first Bush administration.

His agenda was clear: find a rationale to get rid of Saddam.

Then came 9/11. In the months that followed, the war in Afghanistan and the hunt for Osama bin Laden had obvious priority, because al-Qaida was clearly the greatest threat to our national security.

Despite all the clear and consistent warnings about al-Qaida, President Bush treated it as a distraction from his obsession with Saddam. By the summer of 2002, President Bush was restless for war with Iraq. The war in Afghanistan was no longer in the headlines or at the center of attention. Bin Laden was hard to find, the economy was in trouble, and so was the President's approval ratings in the polls.

Karl Rove had tipped his hand earlier by stating that the war on terrorism could bring political benefits as well. The President's undeniable goal was to convince the American people that war was necessary with Iraq—and necessary right away—because Saddam was a bigger threat.

That conclusion was not supported by the facts or the intelligence, but they could be retrofitted to support it. Senior administration officials kept suggesting the threat from Iraq was imminent.

At a roundtable discussion with European journalists last month, Secretary Rumsfeld insisted: ''I never said imminent threat.''

In fact, Secretary Rumsfeld had told the House Armed Services Committee on September 18, 2002, ''. . . Some have argued that the nuclear threat from Iraq is not imminent—that Saddam is at least 5–7 years away from having nuclear weapons. I would not be so certain.''

In May 2003, White spokesman Ari Fleischer was asked whether he went to war ''because we said WMD were a direct and imminent threat to the United States.'' Fleischer responded, ''Absolutely.''

What else could National Security Adviser Condoleezza Rice have been suggesting, other than an imminent threat—an extremely imminent

threat—when she said on September 8, 2002, ''We don't want the smoking gun to be a mushroom cloud.''

President Bush himself may not have used the word ''imminent'', but he carefully chose strong and loaded words about the nature of the threat—words that the intelligence community never used—to persuade and prepare the Nation to go to war against Iraq.

In the Rose Garden on October 2, 2002, as Congress was preparing to vote on authorizing the war, the President said the Iraqi regime ''is a threat of unique urgency.''

In a speech in Cincinnati on October 7 that year, President Bush echoed Condoleezza Rice's image of nuclear devastation: ''Facing clear evidence of peril, we cannot wait for the final proof—the smoking gun—that could come in the form of a mushroom cloud.'' He says he did not use the word ''imminent.'' What could be more imminent than talk like that?

At a political appearance in New Mexico on October 28, 2002, after Congress had voted to authorize war, and a week before the election, President Bush said Iraq was a ''real and dangerous threat.''

At a NATO summit on November 20, 2002, President Bush said Iraq posed a ''unique and urgent threat.''

In Fort Hood, TX, on January 3, 2003, President Bush called the Iraqi regime a ''grave threat.''

Nuclear weapons. Mushroom cloud. Unique and urgent threat. Real and dangerous threat. Grave threat. This was the administration's rallying cry for war.

When he was Secretary of Defense during the first Gulf War, Vice President CHENEY said, ''We were not going to get bogged down in the problems of trying to take over and govern Iraq.''

As Senator EDWARDS has said, Secretary CHENEY was against getting bogged down in Iraq before he was for it.

Here is another quote from the New York Times in 1991, by Secretary CHENEY:

> If you are going to go in and topple Saddam Hussein, you have to go to Baghdad. Once you've got Baghdad, it's not clear what you're going to do with it. It's not clear what kind of government you would put in place. How much credibility is that government going to have if it is set up by the United States military when it is there? How long does the United States military have to protect the people that sign on for that government? What happens to it once we leave?

That was Secretary CHENEY, his words. He was against the war, too, before he was for it.

But, it was Vice President CHENEY who first laid out the trumped up argument for war with Iraq to an unsuspecting public. In a speech on August 26, 2002, to the Veterans of Foreign Wars, he asserted: ''. . . We now know that Saddam has resumed his efforts to acquire nuclear weapons . . . Many of us are convinced that Saddam will acquire nuclear weapons fairly soon.'' As we now know, the intelligence community was far from certain. Yet the Vice President had no doubt.

On September 8, 2002, CHENEY was even more emphatic about Saddam. He said, ''[We] do know, with absolute certainty, that he is using his procurement system to acquire the equipment he needs in order to enrich uranium to build a nuclear weapon.'' The intelligence community was deeply divided about the aluminum tubes, but CHENEY was absolutely certain.

One month later, on the eve of the watershed vote by Congress to authorize the war, President Bush said it even more vividly. He said, ''Iraq has attempted to purchase high-strength aluminum tubes . . . which are used to enrich uranium for nuclear weapons. If the Iraqi regime is able to produce, buy, or steal an amount of highly enriched uranium a little larger than a single softball, it could have a nuclear weapon in less than a year. And if we allow that to happen, a terrible line would be crossed . . . Saddam Hussein would be in a position to pass nuclear technology to terrorists.''

In fact, as we now know, the intelligence community was far from united on Iraq's nuclear threat. The administration attempted to conceal the disagreement from the public by classifying the information and the dissents by the intelligence community until after the war, even while making dramatic and excessive public statements about the immediacy of the danger.

The second major claim in the administration's case for war was the linkage between Saddam Hussein and al-Qaida.

The National Intelligence Estimate found no cooperative relationship between Saddam and al-Qaida. On the contrary, it stated only that such a relationship might happen if Saddam were ''sufficiently desperate''—in other words, if America went to war. But the intelligence estimate placed ''low confidence'' that, even in desperation, Saddam would give weapons of mass destruction to al-Qaida.

President Bush ignored all that. He was relentless in raising America's fears about Saddam after the devastating 9/11 tragedy. He drew a clear link—and drew it repeatedly—between al-Qaida and Saddam.

In a September 25, 2002, statement at the White House, President Bush flatly declared: ''You can't distinguish between al-Qaida and Saddam when you talk about the war on terror.'' How could any President make a preposterous statement like that?

He kept piling it on. In his State of the Union Address in January 2003, President Bush said, ''Evidence from intelligence sources, secret communications, and statements by people now in custody reveal that Saddam Hussein aids and protects terrorists, including members of al-Qaida.'' He said Saddam could provide ''lethal viruses'' to a ''shadowy terrorist network.''

Two weeks later, in his radio address to the Nation, a month before the war began, President Bush described the ties in detail, saying ''Saddam Hussein has longstanding, direct and continuing ties to terrorist networks...''

He said: ''Senior members of Iraqi intelligence and al-Qaida have met at least eight times since the early 1990s. Iraq has sent bomb making and document-forgery experts to work with al-Qaida. Iraq has also provided al-Qaida with chemical and biological weapons training. An al-Qaida operative was sent to Iraq several times in the late 1990s for help in acquiring poisons and gases. We also know that Iraq is harboring a terrorist network headed by a senior al-Qaida terrorist planner. This network runs a poison and explosive training camp in northeast Iraq, and many of its leaders are known to be in Baghdad.''

In fact, there was no operational link and no clear and persuasive pattern of ties between the Iraq and al-Qaida. That fact should have been abundantly clear to President Bush, since Iraq and al-Qaida had diametrically opposite views of the world.

Al-Qaida and its religious fanatics detested Saddam, because Saddam was a secular dictator. Yet, President Bush had more than half the country believing that Saddam and al-Qaida were in cahoots on 9/11.

Secretary of State Colin Powell now agrees that there was no link between 9/11 and Saddam's regime. So does Secretary of Defense Donald Rumsfeld.

A bipartisan 9/11 Commission Staff Statement put it plainly: ''Two senior bin Laden associates have adamantly denied that any ties existed between al-Qaida and Iraq. We have no credible evidence that Iraq and al-Qaida cooperated on attacks against the United States.''

The bipartisan 9/11 Commission report stated clearly that there was no evidence of a collaborative ''operational'' connection between Saddam and al-Qaida. The report said there was no evidence ''indicating that Iraq cooperated with al-Qaida in developing or carrying out any attacks against the United States.''

This past July, the Senate Intelligence Committee issued a bipartisan report whose title was, ''Prewar Intelligence Regarding Iraq Weapons of Mass Destruction and Links to Terrorism.'' The report said there was not ''an established formal relationship'' between al-Qaida and Saddam Hussein.

But in his march to war, President Bush exaggerated the threat anyway. It was not subtle. It was not nuanced. It was pure, unadulterated fear mongering, based on a devious strategy to convince the American people that Saddam had helped commit 9/11 and had the ability to provide nuclear weapons to al-Qaida, so that immediate war was necessary.

America went to war in Iraq because President Bush insisted that nuclear weapons in the hands of Saddam Hussein and his ties to al-Qaida were too

dangerous to ignore. None of that was true, so all that President Bush says now is that Saddam was a brutal dictator and that America and the world are better off without him. Talk about flip-flops.

How dare President Bush accuse JOHN KERRY of flip-flops on Iraq. My response is ''Physician, heal thyself.'' President Bush is the all-time world-record-holder for flip-flops. Nothing JOHN KERRY has said remotely compares with President Bush's gigantic flip-flops on the reasons he went to war.

The war in Iraq itself has not made America safer and has not made the world safer. None of the President's post war rationalizations are sufficient to justify war.

Almost every week, President bush tries a new rationale for the war. He's said our goal was ''sovereignty'' for Iraq, ''dignity'' for Iraq's culture, and ''for every Iraqi citizen, the opportunity for a better life.''

On April 30, 2004, he suggested the war was about human rights, saying ''there are no longer torture chambers or rape rooms or mass graves in Iraq.''

He's suggested the war was for freedom and democracy.

He's said, ''The rise of a free and self-governing Iraq will deny terrorists a base of operation, discredit their narrow ideology, and give momentum to reformers across the region.''

He has said the war was ''a victory for the security of America and the civilized world.''

None of this rationale is an adequate justification for war, and the President did not even try to make them a justification until long after the war began and all the other plausible justifications had proven false.

Saddam was not an imminent threat. The war in Iraq was a perilous distraction from the real war on terrorism—the war against al-Qaida. President Bush got it exactly wrong. To him, the war in Afghanistan was a distraction from the war he wanted against Saddam.

The war on in Iraq has clearly made America more hated in the world, especially in the Islamic world, and it has made Americans more vulnerable to terrorist attacks both here at home and overseas.

We'll hear much more about this issue in tonight's Presidential debate, and the debate will go in Congress and in communities across the country between now and the election. The most important decision any President ever makes is the decision on war or peace. No President who misleads the country on the need for war deserves to be re-elected. Any President who does so must be held accountable, and November 2 is the chance to do it.

Mr. President, we know that some defenders of the President are desperate to support him. They say any dissent is only helping the terrorists. They even claim that al-Qaida wants JOHN KERRY to win this election.

It's despicable to make charges like that. It is not unpatriotic to tell the truth to the American people about the war in Iraq. In this grave moment of our country, to use the words of Thomas Jefferson, ''Dissent is the highest form of patriotism.''

The PRESIDING OFFICER (Ms. MURKOWSKI.) The Senator from Oregon is now recognized for 10 minutes.

SENATOR KERRY AND IRAQ

Mr. SMITH. Madam President, I have been privileged on a number of occasions to be in that chair when Senator KENNEDY was speaking. I say this with affection and admiration. Senator KENNEDY has been clear from the beginning of this conflict that he is against the war in Iraq, and I respect his clarity. But it is interesting that while the senior Senator from Massachusetts has been entirely clear and entirely consistent, the junior Senator from Massachusetts, the Democratic nominee, could not have been in more confusion, leaving the American people in a greater sense of chaos than words could make possible.

It is amazing, interesting, that we have in Senator KERRY a decorated Vietnam veteran, and yet we have in Senator KERRY a man who now is falling in the polls who faces tonight an opportunity to clarify for the American people his position on Iraq. With plummeting poll numbers, it has to be asked, why has his fortunes as a war hero and veteran been so reversed?

I find the answer in the Good Book in a verse where Paul says:

> For if the trumpet give an uncertain sound, who shall prepare himself to the battle?

I do not know that there is a more certain sound than Senator KENNEDY. I cannot imagine a more uncertain sound than Senator KERRY.

Let's review the record. Whether you are for or against the war, those are positions one can argue, as I have done on the side of the war on terrorism that includes Iraq, or as Senator KENNEDY has against Iraq as a part of the war on terrorism, but let's review what Senator KERRY has said to the American people.

Did going to war in Iraq make us more secure or less secure? Apparently, Senator KERRY is not sure. He is saying now that we traded a dictator for chaos in Iraq. That has made us less secure. But during the primary season, he ravaged Howard Dean by saying:

> Those who doubted whether Iraq or the world would be better off without Saddam Hussein and those who believe we are not safer with his capture don't have the judgment to be President or the credibility to be elected President.

Yet those are two diametrically opposed positions.

Yesterday on ABC's ''Good Morning America,'' Diane Sawyer asked him this very question. He said: We won't know until we know whether this has been successful or not. Thank Heavens President Roosevelt did not have that position after Corregidor or President Lincoln after Antietam. I think JOHN KERRY was right: People who cannot make up their minds should not be President of the United States.

But which is it? If, indeed, as Senator KERRY has claimed, we are less secure, then it seems that he is lacking a serious component of judgment.

Can Senator KERRY, by virtue of bringing a new face to the Presidency, convince some of our reluctant allies to participate more vigorously to bringing democracy in Iraq? He believes he can, despite the fact that both the French and German governments have said time and again, repeatedly, no matter the outcome of the American election, they will not do more to help in Iraq.

So it seems to me that Senator KERRY is playing a rather false hand to the American people. It is an illusory promise. It just will not happen.

I have heard the Senator complain that we do not have enough troops, and now he wants to pull the troops home. So the question is, Should we increase the number of American troops or should we bring them home and leave Iraq to the Iraqis? This is a question about which reasonable people can disagree, but Senator KERRY's statements indicate he disagrees again with himself.

First he says we should do what the military leaders say, even if that means deploying more troops to Iraq. Then he said he intends to get all Americans troops home in his first term. Then last week he said he does not intend to increase troops at all. Specifically he said:

> I believe as a new President, with new credibility, with a fresh start, that I have the ability to be able to change the dynamics on the ground.

I agree with him; he would certainly change the dynamics on the ground. The enemies of freedom in Iraq would feel emboldened to wait it out until the United States leaves, rather than recognize the democratic process is irreversible. That is not the kind of dynamic I want to see or the American people deserve to see.

When the Senate voted to give President Bush the authority to go to war, did we mean he could actually start a war? This is a question that I, as a Senator, take very seriously. Senator KERRY voted for the authorization, just as I did, but is now saying:

> The authority was the authority to do the inspections. The authority is the authority to build an alliance. The authority was necessary because it was the only way to make inspections happen so that you could hold Saddam Hussein accountable.

And that the Senate also gave the President the ''authority not to go to war.'' End of quote from JOHN KERRY.

Yet what did the resolution actually say, Madam President? It could not be clearer. You heard what JOHN KERRY said, what he thought it said, but he should have read it. It says: ''Joint Resolution to authorize the use of the United States Armed Forces against

Iraq.'' If my colleague read nothing else in the resolution but that first line, he would still have known what this resolution was designed to do.

Later in the text, in case anyone missed the intent, it states:

The Congress declares that this section—

Which authorizes the use of the Armed Forces—

is intended to constitute specific statutory authorization within the meaning of 5(b) of the War Powers resolution.

There is no room for disagreement about what we are doing with this resolution. He voted for it. I did. An overwhelming majority did. And it does not say what Senator KERRY now says it said.

I take responsibility for voting on matters of war and peace very seriously, but we cannot have it both ways. We cannot expect to have credibility in the world, that Senator KERRY so consistently states he would bring, if we squander our words in meaning in such a way as he now does on matters as important as authorizing war and peace.

What do we do going forward, Madam President? On September 20, Senator KERRY gave a speech outlining his latest plan for Iraq. He had four main points.

The first: The President must get international support so American troops do not have to ''go it alone.''

The fact is, 32 countries are contributing 25,000 soldiers to the coalition effort in Iraq.

The second part of his plan: The President must get serious about training Iraqi forces.

Yet there are currently almost 100,000 fully trained Iraqi soldiers, police officers, and other security personnel out of the 164,000 Iraqis out there on the front lines defending their freedom and protecting their country. An additional 75,000 Iraqis have received some form of security training to guard important facilities.

The third point: The President must carry out a reconstruction plan that brings tangible benefits to the Iraqi people.

Yet the United States has already spent more than a billion dollars on urgent reconstruction projects in areas threatened by the insurgency. In the next several months, over $9 billion will be spent on contracts that will help Iraqis rebuild schools, hospitals, bridges, as well as upgrade the electricity grid and modernize the communications system.

This point is actually particularly laughable, given that Senator KERRY, who now says we have to do this, voted against the money to do this. He voted against the $87 billion before he says he voted for it that included nearly $20 billion in vital reconstruction for Iraq. Again, the uncertainty.

His final point: The President must take immediate steps to guarantee elections in Iraq will be held next year.

Yet an Iraqi electoral commission is now up and running and has already hired personnel and is making key decisions about electoral procedures. The commission launched a public education campaign to inform Iraqis about the process and encourage them to become voters, and United Nation's electoral advisers are on the ground in Iraq.

What is particularly interesting about this is that on May 24, 2004, nearly 4 months before Senator KERRY's speech in New York, President Bush laid out a five-step plan for helping Iraq achieve democracy and freedom. Everything Senator KERRY proposed was part of the President's plan he announced in May, and the administration has been implementing it.

In conclusion, at the present time, Senator KERRY issued a press release stating that the President's speech laid out general principles—and this is laughable—''most of which we've heard before'' because they are part and parcel of the President's plan.

So if the trumpet gives an uncertain sound, no one will prepare to battle, and that, I believe, is the reason for Senator KERRY's plummeting in the opinion polls of the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, we are now going to resume consideration of S. 2845. Senator LIEBERMAN and I, along with the two leaders, encourage Members to come forward with their amendments. The leaders are determined that we will finish this bill very early next week. In order to do so, we need the cooperation of all Senators who have filed amendments, and we encourage them to bring them forward.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 3797

Mr. GRAHAM of Florida. Madam President, I rise today to speak on what I consider to be one of the most important areas of intelligence reform, and then I will offer an amendment to help advance that position.

Over the last several weeks, I have been making a series of statements on various aspects of intelligence reform. In my recent statements, I have discussed the history of the U.S. intelligence community, the community's failure to adapt to changing conditions since the end of the Cold War, the unfortunate reluctance of both the Congress and the administration to tackle these much needed and long-reported necessary reforms, the shape that I believe our reform should take, and the danger that excessive Government secrecy poses to our national security.

I have also expressed my gratitude to the independent 9/11 Commission and its predecessors for the work they have done in analyzing the strengths and weaknesses of the American intelligence community and offering recommendations as to how these weaknesses can be remedied.

Today, I also thank several of my colleagues for the work they have done in providing the groundwork for this legislation and moving it substantially toward fruition. Senators COLLINS and LIEBERMAN have put a substantial amount of work into crafting meaningful bipartisan intelligence reform legislation that seeks to correct current failings. They and their staffs should be commended for that effort.

In addition, Senators MCCAIN and ROBERTS have stepped forward with very thoughtful proposals for reform, and as we work to fine-tune the Collins-Lieberman bill, their proposals will be an excellent source of ideas and alternatives.

We all owe our gratitude to the other members of the Governmental Affairs and Intelligence Committees, especially Vice Chairman ROCKEFELLER on the Intelligence Committee, and their respective staff members for all the contributions they have made to the debate over the direction of intelligence reform.

I spoke last week about the direction in which I thought we should move with these reforms and the shape these reforms should take. I would now like to discuss in more detail how we might accomplish that within this legislation.

I will offer an amendment which I hope will be a contribution to achieving these goals. First some background.

Our national intelligence community currently resembles our military as it looked prior to 1947. It is made up of a number of agencies that originated at different times and with different structures, with shared common goals, but frequently found they had difficulty working with one another because of their different histories, different cultures, different bureaucratic structures, and different priorities. That would have also been a definition for the American military pre-1947.

In that year, at the urging of President Harry Truman, Congress passed the National Security Act, which brought together all of the components of the military. There had been a Secretary of the Navy, there had been a Secretary of War, sometimes referred to as the Secretary of the Army, and there certainly would have been a Secretary of the Air Force had the National Security Act not intervened. This new legislation created for the first time a civilian leader at the top and uniformed service chiefs reporting to that leader.

This was an important reform, but it did not end all the rivalries and competition for actions and spending resources within the military. There were a series of events that occurred in the late 1970s and early 1980s which dramatized these continuing weaknesses. We were unable to rescue hostages who had been taken in Tehran. We were unable to avoid the massacre of over 200 American marines in barracks in Beirut by Hezbollah, and there were a series of missteps on the small island of Grenada. Reviewing all of these issues, in 1986, it was becoming

apparent that though all the services reported to a single departmental head, they still had many problems communicating with one another and working effectively together.

As it had in 1947, Congress again stepped forward with the Goldwater-Nichols Act, which decentralized the military establishment. Control over military operations moved from the Pentagon to several joint commands, each responsible for a different geographic area of the world. As a result, the U.S. military has become more effective than ever before.

Given that our international intelligence community is currently in a pre-1947 state, our challenge now is to enact both the equivalence of the National Security Act of 1947 and the Goldwater-Nichols Act of 1986 at the same time. In other words, we must centralize authority and then immediately commence the process of decentralizing the bureaucracy.

We waited 39 years between the National Security Act and Goldwater-Nichols. We cannot afford to wait 39 years between the action we will hopefully take this year and the time we will begin to decentralize the intelligence bureaucracies. It is essential that this legislation create a strong director of national intelligence and also lay out the best possible structure for intelligence collection and analysis.

In my view and in the view of many others, our intelligence community would be most effective if it were organized around the mission-based model that brings personnel from different agencies and specialties together to focus on whatever intelligence missions the national director deems to be most important.

In a recent publication called ''Intelligence Matters,'' I state:

> This may seem counterintuitive, but for us to deal with this decentralization, we must first centralize. Since their inception, the agencies that make up our foreign intelligence community have focused on assignments like the collection of signals or visual images. While each agency focuses on its own responsibilities, the larger realities—like the changed nature of the enemy—go unattended. They are nobody's business.

The structure we have before us today gives us an opportunity to place those large issues of adaptation to new threats in an appropriate structure.

The director will be responsible for giving the centers their missions and assigning them the personnel and resources they need to do their job.

He or she can then be held accountable for the centers' performance and accomplishments.

This model was previously suggested by the 9/11 Commission.

In the conclusion of its report, it discusses the structural problems that currently plague our intelligence community, and suggest that significant changes must be made in order to achieve unity of effort among the community's various agencies.

The Commission report recommends that a national center for counterterrorism be established, and I am pleased that President Bush has endorsed the creation of such a center, and it is contained in the legislation before us today.

This center will bring together personnel from a variety of disciplines and specialties from across the intelligence community to focus on the problem of international terrorism.

By bringing them all together and placing them on the same staff, we can overcome the bureaucratic and sociological barriers that have sometimes prevented them from being effective.

This will also help us use our intelligence resources more efficiently by ensuring that different agencies are not doing redundant work on the same threat.

In addition to a national counterterrorism center, the Commission also recommends that other centers be created to focus on different global challenges, such as nuclear proliferation, international drug trafficking, or particular rogue states such as North Korea, and Iran.

These centers would be able to bring together personnel in the same manner as the Counterterrorism Center, allowing us to be more efficient and effective in intelligence gathering and analysis.

The Commission recommended that management of these centers should be one of the director's primary responsibilities. Their recommendation states:

> The current position of Director of Central Intelligence should be replaced by a National Intelligence Director with two main areas of responsibility: (1) to oversee national intelligence centers on specific subjects of interests across the U.S. government and (2) to manage the national intelligence program and oversee the agencies that contribute to it.

The national director must be given the flexibility to create, reorganize or even disband these centers as needed, just as the Secretary of Defense has the authority to shift the responsibility of the unified commands.

For instance, Syria and Lebanon were once included in the European Command, but as the international situation changed, it became more appropriate to move them to Central Command, which already included their Middle Eastern neighbors.

A second instance is the Caribbean region, which was previously included in the Atlantic Command and has since been moved to the Southern Command, which includes the rest of Latin America.

Congress had empowered the Secretary of Defense to make these decisions while maintaining its constitutional responsibility for oversight and appropriations.

This wise allocation of authority has enabled the Department of Defense to do what the intelligence community has been unable to do; that is to respond to changing conditions in a swift and decisive manner.

The authors of Goldwater-Nichols gave the Secretary of Defense the necessary level of flexibility and adaptability by not writing into law which commands should be created and what countries they should include.

Instead, we empowered the Secretary to establish or alter the unified commands as circumstances dictate.

The current version of the Collions-Lieberman bill includes language to establish national intelligence centers, in accordance with the 9/11 Commission's recommendations.

This is obviously a significant step in the right direction.

However, I believe that is necessary to make some modifications to the language in order to clarify the purpose of the centers and to ensure that the national intelligence director has the authority needed to manage them effectively.

Some of the provisions that we need to be aware of and include in the final version of this legislation as it relates to national intelligence centers are these:

First, we should include language making clear that the mission of the national intelligence centers is to focus on specific threats.

In keeping with the Commission's recommendation, this would mean that some centers might focus on specific countries or regions, while others would focus on global problems such as nuclear proliferation.

Second, we must make the national intelligence centers the focal point of intelligence gathering and analysis for their particular area of focus.

The centers should develop a strategy for the collection and analysis of intelligence regarding their area of focus and draw upon the resources of the various intelligence agencies to implement this strategy.

To give an example of how this might work, imagine that the national director believes that we need a focus on counterproliferation of nuclear weapons, and surely we do.

In a very important recent book, ''Nuclear Terrorism,'' by Graham Allison, it is pointed out that there are two important truths as it relates to nuclear terrorism. The first is that it is inevitable that nuclear weapons will come into the hands of terrorists who will use them against us. The second truth is that inevitability is preventable.

Professor Allison points out a number of steps that must be taken in order to avoid the inevitable. Many of those relate to the intelligence community's role. Professor Allison makes a number of suggestions as to what reforms are required in order to avoid a nuclear weapon in the hands of a terrorist who is destined to use it against the people of the United States.

Just to summarize his points:

First, American intelligence must move beyond its Cold War mindset. This legislation will help us achieve that goal.

Second, the United States must cultivate long-term strategic relationships with foreign intelligence agencies. I believe having a strong director

of national intelligence will contribute to that objective.

Third, the American intelligence community must enhance its data-mining efforts to process, analyze, and disseminate open sources of intelligence. This legislation provides a heightened awareness of the value and the credibility of open source information, that is information that is available, other than through clandestine means.

Finally and above all, intelligence assessments must be credible.

I believe this provision for the establishment of national intelligence centers will make a dramatic contribution toward enhancing the credibility of U.S. intelligence.

The fact that we are creating within this legislation one national intelligence center, that for counterterrorism, and leaving the creation of the other centers up to the discretion of the national intelligence director is essentially an accident of history. The 9/11 attacks were the use of conventional weapons—fire and gasoline—in a nonconventional manner—large airplanes flying into large buildings.

If the attacks of 9/11 had taken another form, such as a cargo container which was loaded at a distant point and arrived in the Port of New York and was unloaded, and a week later found itself in downtown Chicago, and because that container, in addition to its commercial cargo, also carried a dirty nuclear bomb, and that bomb, were it to be detonated, we would have had an event multiple times of what, in fact, happened on 9/11. And I can assure you that the center would have been written into this legislation and would have been the center on the avoidance of the proliferation of nuclear weapons.

We are about to give that authority to the director of intelligence. I believe we should give it to him with as close as possible the same authority and the same capability as we are statutorily giving to the center on terrorism. That is what this amendment attempts to do.

Finally, we must ensure that our national intelligence community is constantly adapting in response to changes in the world around us. Unfortunately, our intelligence community, since its inception in that same National Security Act of 1947, has had difficulty adapting to changed circumstances. It had that difficulty in the 1950s. It has had that difficulty since the last of the Soviet Union in the late 1980s through the early 1990s. Our intelligence agencies were slow in shifting their focus from the Soviet Union to the more diffuse threat such as terrorism, weapons proliferation, and rogue states.

As former CIA Director James Woolsey put it:

> It was as if we had been struggling with a dragon for 45 years and finally defeated it . . . and then found ourselves in the jungle with a lot of poisonous snakes. The snakes were harder to keep track of than the dragon.

The national director should be required to frequently review the mission and areas of responsibility of the intelligence centers, so that we do not waste time staring at the dragon which we have already slain.

He must also have the ability to create new centers rapidly, so that they are not slow to react to the appearance of snakes.

The amendment I am offering would modify the very instructive policies in the Collins-Lieberman bill to lay the groundwork for reforms recommended by the 9/11 Commission, and ensure that the national director has sufficient authority to carry them out.

Madam President and colleagues, I draw your attention to the fact that I have discussed this amendment with Governor Kean and with former Congressman Lee Hamilton, the distinguished Chair of the 9/11 Commission. And I am pleased they have responded enthusiastically.

I have received a letter from Governor Kean and Congressman Hamilton which includes this statement:

> The importance of integrated, all-source analysis cannot be overstated. Without it, it is not possible to ''connect the dots.'' No one competent today holds all of the relevant information. Our view is it is imperative to have unity of effort across the intelligence community.
>
> Therefore, we strongly endorse the creation of national intelligence centers on specific subjects of interest across the U.S. Government. Clearly, with regard to the high priority of counterterrorism, the centers should be the intelligence entity inside the national counterterrorism center . . . we have proposed. Other national intelligence centers—for instance, on counter-proliferation, crime and narcotics, the Middle East, Russia and China—could be created based on the President and National Security Council's determination of need.

The letter concludes:

> A true sharing of all relevant information among analysts, and the creation of national intelligence centers offering the best advice and analysis to the President—together with the continued independence of State, Treasury, Energy and Defense Department analytical units—provides a better way to foster competitive analysis than does the status quo.
>
> To keep the country secure, we believe the government must build the intelligence capabilities it will need for the broad range of national security challenges in the decades ahead.

We have the opportunity to take a step which will fundamentally enhance the security of the people of America not only against the threat that we know today, not only against the dragons with which we are currently grappling, but with those poisonous snakes that may not be so obvious, the poisonous snakes which may be hiding just beyond the horizon.

The national intelligence centers will be a key to our ability to do for intelligence what Goldwater-Nichols did in 1986 for our military.

I urge my colleagues to seriously consider and to adopt these amendments to the excellent legislation which is before us today.

I ask unanimous consent that the letter from Governor Kean and Congressman Hamilton be printed in the RECORD.

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

SEPTEMBER 27, 2004.

Hon. BOB GRAHAM.

DEAR SENATOR GRAHAM: Thank you for your question about the 9/11 Commission's proposal to establish national intelligence centers. The Commission made 41 recommendations that we believe will significantly improve the security and safety of all Americans. All of the recommendations are, in our estimation, important.

We see a particular need for creating national intelligence centers. We have reviewed your suggest amendment on the topic of national intelligence centers. The language seems constructive, and consistent with our proposed approach. As far as how to proceed, we leave the tactics of floor consideration to you and the bill managers.

In our investigation of the 9/11 attacks, we learned that the national security institutions of the U.S. government are still the institutions constructed to fight the Cold War. National intelligence is still organized around the collection disciplines of the home agencies, not the joint mission.

The importance of integrated, all-source analysis cannot be overstated. Without it, it is not possible to ''connect the dots.'' No one component today holds all the relevant information. Our view is that it is imperative to have unity of effort across the intelligence community.

Therefore, we strongly endorse the creation of national intelligence centers on specific subjects of interest across the U.S. government. Clearly, with regard to the high priority of counterterrorism, the center—should be the intelligence entity (formerly the Terrorist Threat Integration Center) inside the National Counterterrorism Center we have proposed. Other national intelligence centers—for instance, on counterproliferation, crime and narcotics, the Middle East, Russia, and China—could be created based on the President and National Security Council's determination of need. These centers will draw from the talent of the individual agencies and become truly national intelligence centers on their respective issues.

The National Intelligence Director that we have proposed would oversee the national intelligence centers to provide all-source analysis and plan intelligence operations for the whole government on major problems. Under our proposals, the National Intelligence Director would retain the present Director of Central Intelligence's role as the principal intelligence adviser to the president. We hope the president will come to look directly to the directors of the national intelligence centers to provide all-source analysis in their areas of responsibility.

A true sharing of all relevant information among analysts, and the creation of national intelligence centers offering their best advice and analysis to the president—together with the continued independence of State, Treasury, Energy and Defense Department analytical units—provides a better way to foster competitive analysis than does the status quo.

To keep the country secure, we believe the government must build the intelligence capabilities it will need for the broad range of national security challenges in the decades ahead. National intelligence centers should be among those capabilities.

We deeply appreciate your interest in the Commission's recommendations, and we look

forward to working with you on the national intelligence centers proposal, as well as on our other recommendations.

Very respectfully,

TOM KEAN.
LEE HAMILTON.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. LIEBERMAN. Madam President, I wonder if I could, through you, ask the distinguished Senator from Arkansas if he is going to comment on Senator GRAHAM's amendment.

Mr. PRYOR. No. I was going to comment on an amendment that we adopted.

Mr. LIEBERMAN. Madam President, after Senator PRYOR comments, I will be glad to speak for Senator GRAHAM.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Madam President, I rise today with a note of encouragement; that is, one of the things I have noticed through the committee process, and certainly on the Senate floor, is how bipartisan—or maybe in a better sense of the word, nonpartisan—this debate has been. I think the Senate is very committed to following up on the 9/11 recommendations in the 9/11 report. I think we are approaching this in a way that is very constructive and very positive, and which we all hope and pray in the long term is very effective for our national security and for our intelligence.

I know there are a number of amendments that we have still pending. I don't know exactly what is going to be offered or what will be agreed to, but my plan is to listen very carefully to all of those amendments. I think they all have value. I may vote against some of them; nonetheless, I think it is important that we have this discussion, have this debate, and show our leadership for this Nation on this very issue.

There are two Members, two really great leaders, I wish to commend; that is, Senator COLLINS and Senator LIEBERMAN. They have done a fantastic job and have demonstrated the patience of Job through this process in their determination and commitment. They are a prime example of how this Senate can work and should work and how great things can be accomplished by working together.

I think it is incumbent for us as a Senate and as a Congress to provide the tools and the structure that we need in our intelligence community to connect the dots.

I think the 9/11 Commission said this in a number of ways in a number of cases. But at one point, the 9/11 Commission report said:

> Of all our recommendations, strengthening congressional oversight may be among the most difficult and important.

I know because I have talked to many of my colleagues on both sides of the aisle that this body is committed to reforming itself when it comes to intelligence issues.

Let me read, if I may, from the report one short paragraph found on page 105 of the 9/11 Commission Report. It says:

> Fourth, the oversight function of Congress has diminished over time. In recent years, traditional review of the administration of programs and the implementation of laws has been replaced by ''a focus on personal investigations, possible scandals, and issues designed to generate media attention.'' The unglamorous but essential work of oversight has been neglected, and few members past or present believe it is performed well. DCI Tenet told us: ''We ran from threat to threat to threat. . . . [T]here was not a system in place to say, 'You got to go back and do this and this and this.' '' Not just the DCI but the entire executive branch needed help from Congress in addressing the questions of counterterrorism strategy and policy, looking past day-to-day concerns. Members of Congress, however, also found their time spent on such everyday matters, or in looking back to investigate mistakes, and often missed the big questions—as did the executive branch. Staff tended as well to focus on parochial considerations, seeking to add or cut funding for individual (often small) programs, instead of emphasizing comprehensive oversight projects.

Madam President, my hope is when we finish this bill—it looks as though next week, realistically at this point—we will then turn to the work of reforming congressional oversight. Members on both sides of the aisle are very committed to doing that.

Let me speak for a moment or two about an amendment I was able to tack on in committee. Again, I thank the leadership in the committee but also thank the entire committee because in the end, after we explained this and worked through this and walked through this, we decided this was an amendment that should be added to the bill, and it currently is in the proposed legislation.

Basically, one thing the 9/11 Commission Report said is we need to have a way to evaluate our intelligence structures. It is important as we pass this reform legislation, the most significant reform of intelligence since 1947, to build into it some sort of look-back provision. That is what we have tried to do with my amendment. I am glad the committee has agreed with this and has been able to go along with this.

Basically, it requires the GAO to give a report in 2 years, an independent objective look at what we have done—have we been successful? Have we failed? Do we need to take away a little bit here or add a little bit there? But an independent evaluation, nonpartisan look at exactly what we have done to make sure it is working. It is too important to not get it right the first time.

For example, the 9/11 Commission found a need-to-know culture of information protection rather than a need-to-share culture of integration. The GAO review can indicate whether adequate mechanisms have been put in place to change this culture and be more productive and better, long term, for U.S. intelligence.

I thank the committee for its hard work. I thank the two leaders for their hard work. I thank this entire body for approaching this challenge in a very nonpartisan way.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I commend the Senator from Arkansas for the diligence with which he approached the hearings throughout the August recess and the writing of this important legislation. I very much appreciate the comments of the Senator from Arkansas. He is always generous to me, as well as to the ranking member. We would be remiss if we did not thank him for his contributions to this bill. He was terrific about redoing his schedule throughout the August recess to participate in our numerous hearings. He was instrumental in drafting provisions of the bill including the requirement for the GAO report. I recognize his hard work and leadership and thank him for his kind comments.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 3797

Mr. GRAHAM. Madam President, I send to the desk the amendment consistent with the statement I have just made and ask for its immediate consideration.

The PRESIDING OFFICER. The pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 3797.

Mr. GRAHAM. 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 as follows:

(Purpose: To improve the authorities with respect to the national intelligence centers)

On page 94, line 14, insert before the period the following: '', whether expressed in terms of geographic region, in terms of function, or in other terms''.

On page 95, line 3, insert after the period the following: ''Each notice on a center shall set forth the mission of such center, the area of intelligence responsibility of such center, and the proposed structure of such center.''.

On page 96, line 7, insert ''of the center and the personnel of the center'' after ''control''.

On page 96, between lines 8 and 9, insert the following:

(5) If the Director of a national intelligence center determines at any time that the authority, direction, and control of the Director over the center is insufficient to accomplish the mission of the center, the Director shall promptly notify the National Intelligence Director of that determination.

On page 97, between lines 2 and 3, insert the following:

(5) develop and unify strategy for the collection and analysis of all-source intelligence;

(6) integrate intelligence collection and analysis, both inside and outside the United States;

(7) at the discretion of the NID develop interagency plans for the collection of all-source intelligence, which plans shall—

(A) involve more than one department, agency, or element of the executive branch (unless otherwise directed by the President); and

(B) include the mission, objectives to be achieved, courses of action, parameters for such courses of action, coordination of agencies intelligence collection activities, recommendations for intelligence collection plans, and assignment of departmental or agency responsibilities;

(4) ensure that the collection of all-source intelligence and the conduct of operations are informed by the analysis of all-source intelligence; and

On page 99, between lines 20 and 21, insert the following:

(g) REVIEW AND MODIFICATION OF CENTERS.—(1) Not less often than once each year, the National Intelligence Director shall review the area of intelligence responsibility assigned to each national intelligence center under this section in order to determine whether or not such area of responsibility continues to meet intelligence priorities established by the National Security Council.

(2) Not less often than once each year, the National Intelligence Director shall review the staffing and management of each national intelligence center under this section in order to determine whether or not such staffing or management remains appropriate for the accomplishment of the mission of such center.

(3) The National Intelligence Director may at any time recommend to the President a modification of the area of intelligence responsibility assigned to a national intelligence center under this section. The National Intelligence Director shall make any such recommendation through, and with the approval of, the National Security Council.

(h) SEPARATE BUDGET ACCOUNT.—The National Intelligence Director shall, in accordance with procedures to be issued by the Director in consultation with the congressional intelligence committees, include in the National Intelligence Program budget a separate line item for each national intelligence center under this section.

On page 99, line 21, strike ''(g)'' and insert ''(i)''.

Ms. COLLINS. Madam President, I thank our distinguished colleague from Florida, Senator GRAHAM, for introducing this amendment that clarifies the role of the national intelligence centers that the NID is empowered to create under our bill.

Senator GRAHAM, as former chair of the Intelligence Committee, and having just published a book on intelligence, provides this body with a very important perspective in this debate. His amendment strengthens the role of the national intelligence centers by placing them on par with the National Counterterrorism Center. This amendment provides much needed flexibility to the national intelligence director in establishing the centers. It allows the director to establish criteria for the centers to focus on vital areas of expertise.

The amendment also directs the national intelligence director to provide an annual report to Congress on the responsibilities of each of the centers that are created. This is an important aspect of this amendment. We can no longer afford to maintain the same percentage of Russian linguists today, for example, as we had during the Cold War. We have new wars, new challenges, new threats, and they demand new capabilities and responses as the 9/11 Commission Report indicated.

This amendment is well within the intent of the 9/11 Commission Report and recommendations as is evident by the letter that the Senator has from the chairman and vice chairman of the committee. I endorse the amendment on my side. I am happy to accept it. I thank the Senator for working closely with us.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I rise to support the amendment, as well, and to thank Senator GRAHAM for the characteristic thoughtfulness he brought to this matter and the very constructive additions this amendment makes to the bill and to clarify the authority and the importance of these centers.

This is one of the central contributions of this legislation and derivatively of the 9/11 Commission Report. It grows out of the outrageous failure to share information prior to September 11 that the 9/11 Commission Report documents in riveting detail.

As the Chair knows, we would establish on the passage of this, a national counter terrorism center to focus all of our efforts from all agencies—unity of effort, joint command operations, et cetera—in the fight against terrorism. We also take this basic idea and say to the national intelligence director, you can set up other centers to deal with other particular problems—maybe a specific threat like weapons of mass destruction or nuclear proliferation specifically or a country or subgroup that may be threatening—the United States, set up a center on North Korea or Iran—and you would guarantee, thereby, in these other centers that all the arms of our Government would know what the others would be doing, would be sharing intelligence and analysis of intelligence through these centers, being able to plan joint operations for the collection of intelligence, very critically important to inform the President and the officers of our Government how to deal with these crisis. Senator GRAHAM's amendment makes clear how important these centers are that the NID can create.

I stress, also, the centers are not permanent. They are part of the vision that comes out of the 9/11 Commission Report. The Collins-Lieberman bill before the Senate now is about modern management, 21st century management. If there is a problem, create a center with all your best people around the table planning how to collect and analyze intelligence about the problem, advise the President, Secretary of State, Secretary of Defense, whomever. Once that problem is resolved, that center can and should be terminated. That is the kind of flexibility involved.

Senator GRAHAM, as Senator COLLINS has said, is building on an extraordinary record of experience and very constructive leadership, outspoken, appropriately outspoken leadership in the area of intelligence, and has given us the benefit of that experience with this amendment. I thank him for it. I am happy to accept the amendment on our side.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from Maine.

Ms. COLLINS. Mr. President, I know of no further debate on this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3797) was agreed to.

Mr. GRAHAM of Florida. Mr. President, I extend my deepest gratitude to Senator COLLINS and Senator LIEBERMAN and also my appreciation for the Senators' kind remarks.

Mr. LIEBERMAN. It is deserved.

I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3801

Mr. KYL. Mr. President, I ask unanimous consent that we lay aside the pending business so I may offer an amendment which is at the desk.

Before I finish, I want to say this on behalf of Senator CHAMBLISS and myself. My intention is to speak on it now, then come back to it—pursuant to an agreement that will be worked out with the managers of the bill—sometime early tomorrow afternoon, and people who are opposed to it will have been able to come to the floor and debate it. So we will talk on it right now for a little while, but the purpose for proceeding now is to get it pending so we can later reach an agreement and set it for debate at a later time.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. KYL], for himself, Mr. CHAMBLISS, and Mr. DOMENICI, proposes an amendment numbered 3801.

The amendment is as follows:

(Purpose: To modify the privacy and civil liberties oversight)

On page 52, strike beginning with line 21 through page 56, line 8.

On page 154, strike beginning with line 8 through page 160, line 11 and insert the following:

(d) FUNCTIONS.—

(1) ADVICE AND COUNSEL ON POLICY DEVELOPMENT AND IMPLEMENTATION.—The Board shall—

(A) review proposed legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the development and adoption of information sharing guidelines under section 205(g);

(B) review the implementation of new and existing legislation, regulations, and policies related to efforts to protect the Nation from

terrorism, including the implementation of information sharing guidelines under section 205(g); and

(C) advise the President and the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are appropriately considered in the development and implementation of such legislation, regulations, policies, and guidelines.

(2) OVERSIGHT.—The Board shall continually review—

(A) the regulations, policies, and procedures, and the implementation of the regulations, policies, and procedures, of the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are protected;

(B) the information sharing practices of the departments, agencies, and elements of the executive branch to determine whether they appropriately protect privacy and civil liberties and adhere to the information sharing guidelines prescribed under section 205(g) and to other governing laws, regulations, and policies regarding privacy and civil liberties; and

(C) other actions by the executive branch related to efforts to protect the Nation from terrorism to determine whether such actions—

(i) appropriately protect privacy and civil liberties; and

(ii) are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.

(3) TESTIMONY.—The Members of the Board shall appear and testify before Congress upon request.

(e) REPORTS.—

(1) IN GENERAL.—The Board shall periodically submit, not less than semiannually, reports—

(A)(i) to the appropriate committees of Congress, including the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(ii) to the President; and

(B) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

(2) CONTENTS.—Not less than 2 reports submitted each year under paragraph (1)(B) shall include—

(A) a description of the major activities of the Board during the preceding period; and

(B) information on the findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d).

(f) ACCESS TO INFORMATION.—

(1) AUTHORIZATION.—If determined by the Board to be necessary to carry out its responsibilities under this section, the Board is authorized to—

(A) have access from any department, agency, or element of the executive branch, or any Federal officer or employee, to all relevant records, reports, audits, reviews, documents, papers, recommendations, or other relevant material, including classified information consistent with applicable law;

(B) interview, take statements from, or take public testimony from personnel of any department, agency, or element of the executive branch, or any Federal officer or employee; and

(C) request information or assistance from any State, tribal, or local government.

(2) AGENCY COOPERATION.—Whenever information or assistance requested under subparagraph (A) or (B) of paragraph (1) is, in the judgment of the Board, unreasonably refused or not provided, the Board may submit a request directly to the head of the department, agency, or element concerned.

On page 164, strike beginning with line 21 through page 170, line 8.

Mr. KYL. Mr. President, neither the 9/11 Commission nor the Senate Intelligence Committee, nor anyone else that I am aware of, has said the problem leading up to the attack of 9/11 was due to too much intelligence. The problem, obviously, arose because we didn't have enough intelligence. We could not gather enough information in a timely way to put together all of the possibilities—some say connect the dots—in order to predict that a particular kind of attack was going to occur on that day.

We have had a lot of good, constructive suggestions from the 9/11 Commission, from the Senate Intelligence Committee, from the administration, from the work of the Governmental Affairs Committee, and from other commissions in trying to understand why we didn't have enough intelligence and why we could not put all of this together. Many of the recommendations of the Commission and the legislative solutions in the proposed bill try to correct that problem of not having enough good intelligence.

None of the problems identified suggested that we had too much intelligence and the problem was that people's civil liberties were somehow being jeopardized, or that their privacy rights were being jeopardized. Nobody has ever said that was a problem.

Subsequent to 9/11, we passed the PATRIOT Act. It has been signed into law and most law enforcement officials, the administration, and others argue persuasively, I think, that it has done a lot to help them win the war on terror by collecting additional intelligence. Some have concerns about some of the provisions of the PATRIOT Act with respect to civil liberties or privacy rights. But those are issues that have come up subsequent to 9/11.

My point is that the problem before 9/11 was not having too much intelligence and that jeopardized people's privacy or civil rights. Therefore, it comes as a great surprise to me that there is such a huge emphasis in the committee bill on privacy, civil rights, on having an ombudsman to protect people's rights, on having such an emphasis within the national intelligence directorate on these subjects, having a special board that would look into it, with subpoena powers, outside the intelligence community, and so on. It is my considered judgment, having served on the committee for 8 years, and having heard testimony from a great many people, including Richard Clark, by the way, who testified that risk aversion was one of the key problems leading up to 9/11—it is my judgment that the overkill of all of these provisions in the bill is a fatal flaw in this legislation, which must be corrected, or else what we would have done is to rearrange the bureaucracy here, putting a person in charge as the national intelligence director and making some other changes but crippling his effort and the efforts of the intelligence collection gatherers, analysts, and others in their ability to protect us by gathering intelligence.

Risk aversion, which is a big problem today, will be a huge problem in the future because, in addition to the people today who are looking over the shoulders of the intelligence community, we will have a whole array of new entities with great powers looking over their shoulder; and all of the effort that we are going through to try to begin saying that people should think outside the box, should be bold, innovative, and imaginative, that we need more human intelligence, and that those human intelligence agents are going to do things to gather more intelligence—we should have people who are willing to think outside the box. All of that is going to be significantly jeopardized because of the risk aversion that will be blanketed over all of the community with all of these different entities saying, wait a minute, we understand you are trying to collect intelligence, but we have people's civil rights and privacy rights and all the rest to be concerned about as well.

Of course those are legitimate concerns. That is why we have entities today that help to ensure that privacy and civil rights are not jeopardized. It is enough. This bill creates so many new opportunities for people who object to intelligence gathering and analysis in the way we know it needs to be done that they are going to be able to ball up forever any ability to get meaningful intelligence if we are not careful about how we construct this bill.

Let me tell you a little bit about what I am talking about. Here is a bit of background. Risk aversion—we understand what it means. It was testified to by people such as Richard Clark and others before the Intelligence Committee as the mindset which exists if you do anything out of the ordinary, if you go against the grain, if you collect by unorthodox measures, if you analyze intelligence in a way that might be contrary to the superiors above you in the organization, or to what somebody in Congress or somebody else wants to see, or if the actions that you take have some degree of risk associated with them—either political risk or legal risk, or certainly operational risk in terms of casualties and the like—therefore, because of all of these things there is an aversion to taking those risks.

Government employees who have a career, who have their retirement in mind, and who want to continue to work with the agency want to be sure they are able to continue their careers, do their jobs, and not, because they perhaps work outside of the box, be penalized for doing that.

Agent Rowling of the FBI talked about this in her inability to get the FBI to act on a warrant request she

sought to look into Zacarias Moussaoui's computers. One of the reasons they didn't act was out of a ''political correctness''—their term, not mine—that concerned them about the view that it would look like they were going after somebody on the basis of racial profiling, or some kind of profiling, rather than because they were under suspicion of committing a crime.

This is the kind of risk aversion that everybody agreed was part of the problem with the intelligence gathering and analysis prior to September 11. How do you make that situation worse? You do it by adding new layers of people who are second-guessing these intelligence agents and analysts. There are enough people second-guessing them already, imposing the legal and political layer or filter of approval of the actions of the people in the field. But what the bill does is to create whole new layers.

First, it follows a recommendation of the 9/11 Commission to create some kind of outside board, but goes far beyond the 9/11 Commission recommendations in empowering this board with subpoena power, literally the authority of this outside board, that is not within the intelligence community at all, a citizen board, to haul in any agent anywhere in the world and grill him about what he did or did not do or what he concluded or did not conclude, with no guidance whatsoever. This is a recipe for disaster.

In addition, as if that were not enough, of the six assistant directors of the national intelligence directorate, fully a third of them, two out of the six, have nothing to do with intelligence collection or analysis; they are the privacy and civil rights division.

First, one wonders why those are not the same thing and, second, why you would have to have two out of the six directorates specifically charged with this responsibility. We already have an inspector general whose responsibilities include any situation in which an agent or agency went beyond legal authority or beyond other appropriate authority in the conduct of his or her business. But in addition to the inspector general, in addition to the officers who currently exist in each of the agencies of the intelligence community—virtually all of them—to deal with privacy and civil rights concerns—these already exist—we create two new directorates with this legislation: this outside civilian board and an ombudsman.

In looking through the ombudsman's responsibilities, for example, pity the poor intelligence agent who raises a question that causes this ombudsman to have to question him.

This is not even to get into the congressional oversight which we want to enhance. Our working group, which is developing the improvements to the Intelligence Committee operation, will be soon, I think, be making a recommendation to the body, either in conjunction with the underlying bill or as an amendment to it, that will also fold in enhanced congressional oversight.

We want enhanced congressional oversight, but it is a double-edged sword because it has been abused in the past and can be abused in the future.

When Members have not intelligence as their first priority but questioning somebody within the intelligence community, they can be pretty hard on the intelligence community. We can go all the way to the Church Commission in 1976 to see what kind of damage that can do. So we need to be careful about this congressional oversight, but it is going to be enhanced. We are going to improve our ability to oversee the intelligence community.

In addition to the offices that exist today, and in addition to the inspector general, and in addition to the enhanced congressional oversight, we are creating two more directorates, an outside board, and an ombudsman, all of whom have essentially the same general responsibility of questioning whether the intelligence agents, agencies, analysts, and others are doing their job properly. Then we will ask ourselves why we could not get anybody to think outside the box, to be forward leaning, to try to be aggressive in collecting intelligence, why everybody was meekly following a very single straight line.

The fact that we are creating a national intelligence director creates a bit of a problem in this regard in the first place because instead of having a wider array of entities involved, each with their own points of view, sort of the devil's advocate concept recommended by many, including the 9/11 Commission, to get out of a single-channel orientation group-think, we are making the problem worse, in my view, by creating this single national intelligence director.

If you want a career in the agency, you better not run afoul of what the director wants and what his views are. That is the reality of bureaucracy, and it exists in every agency of the Government, not just the intelligence community. But in the intelligence community, it is particularly important because we want people who are willing to question, to go against the grain, to disagree with their boss, to take a risk.

If we look back at President Clinton's directives to the intelligence community, he tried to be forward leaning, especially with regard to al-Qaida and Osama bin Laden. To paraphrase, in effect what he said is we have to do everything we can to try to get these guys. Repeatedly, efforts were made to bring to his attention operations that would either improve our intelligence or operationally deal with al-Qaida and Osama bin Laden. They were shot down by the Pentagon, by the Secretary of State, by the National Security Adviser, by the lawyers, by the intelligence community itself, the Director of the CIA. Every time we tried to do something, almost, somebody said this is too risky; we cannot do it. That was why the 9/11 Commission, the Senate Intelligence Committee, and many other observers have said we have to get out of this stultifying risk-aversion environment where people are afraid that somebody is looking over their shoulder and is going to jump on them if they do anything that is the least bit out of the ordinary or risky. We have to have the out of the ordinary and risky if we are ever going to defeat this very unconventional enemy.

What does the bill do? It does not try to solve the problem; it makes it far worse. The purpose of our amendment is to say we will follow the 9/11 Commission recommendation and set up this outside commission, but for Heaven's sake, let's not give it the kind of subpoena power—Congress already has that, the inspector general already has the ability to look into all of these things. We do not need an outside board of five, or whatever, people accountable to nobody with the ability to totally disrupt what the intelligence community is doing.

It is fine to report to Congress, to analyze what they think the situation is and let us know what their concerns are. But that is far different from operationally getting right down into the bowels of the organization with hands that can extract anything, classified or not, subpoena anybody, whether in Afghanistan or Langley or wherever, and publicly question what is being done.

That is the first part of the amendment.

The second part of the amendment is to say we do not need all these new entities given the fact we already have existing civil rights and privacy controls. I do not want to be misunderstood. It would be very easy to characterize or mischaracterize what we are trying to do by saying these are people who do not care anything about civil rights; these are people who want the agency to run roughshod over American civil rights, and people can get pretty revved up about that very quickly.

Nothing could be further from the truth. The folks who are understandably going to put a high priority on protecting civil rights need to balance their legitimate concerns about civil rights with a concern about the lives of American citizens, to balance the legislation that is supposed to help fix the problem in such a way that we do not put so many constraints on our intelligence community that it can't do its job.

One of the biggest problems identified, this problem of risk aversion, will be horribly exacerbated if we simply blindly follow the recommendation of those who brought this bill to the floor—and I understand there were a lot of compromises made in order to get unanimous approval out of the committee, but sometimes getting unanimous approval is the wrong goal.

Sometimes you need to make tough choices and you need to reject proposals that are offered by people who then agree to vote for the overall bill if they get their amendment in the bill. That is what happened with this bill, and there are too many little amendments that got in which, when added up, are going to create a huge problem with our intelligence community with respect to this issue of risk aversion.

I cannot stress strongly enough, and this will be my final point, our goal ought to be to improve our intelligence collection, to improve human intelligence, to improve analysis, to foster a sense within this community that they do not have to just follow the narrow channel of group-think that was criticized so strongly by the 9/11 Commission, that they do not have to feel risk averse, that they can take a chance sometimes because we need people to be imaginative and innovative and think about possibilities that before 9/11 we could not have even dreamed of.

I know now some people like to go back and ask: Why did you not think up the fact that people could fly planes into these buildings? Well, one reason was because as soon as one starts thinking about those kinds of things, somebody is going to come down on them like a ton of bricks and say: Get back to your job and stay within the channel here. We do not have time for that kind of fantasizing. You are living in a fantasy world.

We have to have people who are willing to ask these tough questions and think in ways that they are not going to get slapped down when they do. The sure recipe, the prescription for that occurring is by piling on layer upon layer of outside groups, ombudsmen, civil rights, privacy divisions, all of these groups that are duplicative of what we already have, to call into question what our agents and analysts are doing.

There is simply no need to have so many people performing the same task, which, in any event, does not add to intelligence, but, by its very nature, is designed to restrict intelligence activity. Surely, we can protect civil liberties and privacy without setting up a situation in which it is going to be incredibly difficult for the intelligence community to effectively perform its mission.

After all, our chief objective is to make it easier to predict and prevent a terrorist attack, not more difficult.

Excessive oversight will result in our intelligence officers being more cautious than they should be, and deter them from taking the risks that may be necessary to keep our country safe.

Indeed, an aversion to taking risks, even when they should be taken, already plagues our intelligence community. Time and time again, this has contributed to intelligence failures, most recently, of course, 9/11 and the intelligence community's claims about Saddam's weapons of mass destruction.

There are numerous reasons for this culture of risk aversion—unclear authorities, legal restrictions, and excessive oversight are among them.

The deterioration of our intelligence community's clandestine service offers a good example.

According to the 9/11 Commission's report, James Pavitt, the head of the CIA's Directorate of Operations, recalled that covert action had gotten the clandestine service into trouble in the past, and he had no desire to see it happen again.

The ''trouble'' he referred to was at least partly the result of the 1973 Church Committee hearings in Congress. Added to that were the restrictive guidelines promulgated by then-CIA Director John Deutch in 1995, which severely limited the ability of CIA case officers to meet with and recruit foreign nationals who may have been involved in dubious activities or have blood on their hands.

The end result was out intelligence community's inability to penetrate al-Qaida's command structure. Before 9/11, we had not one source inside that command structure. Unclear authorities, excessive oversight, and burdensome restrictions prevented our people on the ground from being effective.

I recognize that privacy and civil liberties are substantively entirely different matters. However, the end result of unnecessary bureaucracy, restrictions, and excessive oversight will be the same. We will cultivate a culture within the intelligence community that makes it less likely that people will be willing to do the jobs we are asking them to do, and more likely that they will want to ''play it safe.''

My amendment would very simply delete sections 126 and 127, which require officers for privacy and civil liberties with the National Intelligence Authority; it would strike section 212, requiring privacy and civil liberties officers with a long list of Executive Branch departments and agencies; and it would modify the Privacy and Civil Liberties Oversight Board established by section 211.

The National Intelligence Authority does not need three individuals assigned to the same task. The IG of the National Intelligence Authority will be in place to ensure privacy and civil liberties receive adequate attention and oversight.

Similarly, it is redundant to require privacy and civil liberties officers within almost every national-security related department and agency.

My amendment would retain the Privacy and Civil Liberties Oversight Board, as the 9/11 Commission recommended. However, it would limit Board's ability to interfere in the activities of relevant departments and agencies.

I hope that Members will support this amendment. It follows the 9/11 Commission's recommendations with respect to privacy and civil liberties, and ensures adequate oversight and protections, but does so without hamstringing the community.

I urge my colleagues when we debate this amendment further tomorrow to please read the bill, look at the relevant portions of the 9/11 Commission recommendations, look at the testimony of those who have raised this kind of question and ask whether the bill as presented is not a little bit out of balance—I contend a great deal out of balance.

I do not cast any aspersions on the people who worked so hard to bring this bill to the Senate floor. There are not enough compliments for the Senator from Maine and the Senator from Connecticut for the hard work they have done and all of the others who have worked so hard on it. This is not in any way meant as personal criticism, but I fear if we do not very carefully analyze this and try to correct it—and remember, that was part of what this was all about: let's get the bill to the floor; we can always make corrections here. This is the time to do it. We have not written a bill on the floor for a long time, but this is too important not to take the time to do right.

I urge my colleagues, let us not make the mistake of rushing forward with this, putting a rubberstamp on the committee's bill because we have to do something before we leave on October 8. We will spend years ruing the day we took this kind of action if we are not careful about what we do.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the pending amendment of Senator KYL be laid aside for purposes of proposing additional amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3806

Mr. MCCAIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, and Mr. LIEBERMAN, proposes an amendment numbered 3806.

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 as follows:

(Purpose: To improve the transition between Presidential administrations)

At the end of the bill, add the following:

TITLE ___—PRESIDENTIAL TRANSITION

SEC. ___01. PRESIDENTIAL TRANSITION.

(a) SERVICES PROVIDED PRESIDENT-ELECT.—Section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended—

(1) by adding after subsection (a)(8)(A)(iv) the following:

''(v) Activities under this paragraph shall include the preparation of a detailed classified, compartmented summary by the relevant outgoing executive branch officials of specific operational threats to national security; major military or covert operations;

and pending decisions on possible uses of military force. This summary shall be provided to the President-elect as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.'';

(2) by redesignating subsection (f) as subsection (g); and

(3) by adding after subsection (e) the following:

''(f)(1) The President-elect should submit to the Federal Bureau of Investigation or other appropriate agency and then, upon taking effect and designation, to the agency designated by the President under section 115(b) of the National Intelligence Reform Act of 2004, the names of candidates for high level national security positions through the level of undersecretary of cabinet departments as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.

''(2) The responsible agency or agencies shall undertake and complete as expeditiously as possible the background investigations necessary to provide appropriate security clearances to the individuals who are candidates described under paragraph (1) before the date of the inauguration of the President-elect as President and the inauguration of the Vice-President-elect as Vice President.''.

(b) SENSE OF THE SENATE REGARDING EXPEDITED CONSIDERATION OF NATIONAL SECURITY NOMINEES.—It is the sense of the Senate that—

(1) the President-elect should submit the nominations of candidates for high-level national security positions, through the level of undersecretary of cabinet departments, to the Senate by the date of the inauguration of the President-elect as President; and

(2) for all such national security nominees received by the date of inauguration, the Senate committees to which these nominations are referred should, to the fullest extent possible, complete their consideration of these nominations, and, if such nominations are reported by the committees, the full Senate should vote to confirm or reject these nominations, within 30 days of their submission.

(c) SECURITY CLEARANCES FOR TRANSITION TEAM MEMBERS.—

(1) DEFINITION.—In this section, the term ''major party'' shall have the meaning given under section 9002(6) of the Internal Revenue Code of 1986.

(2) IN GENERAL.—Each major party candidate for President may submit, before the date of the general election, requests for security clearances for prospective transition team members who will have a need for access to classified information to carry out their responsibilities as members of the President-elect's transition team.

(3) COMPLETION DATE.—Necessary background investigations and eligibility determinations to permit appropriate prospective transition team members to have access to classified information shall be completed, to the fullest extent practicable, by the day after the date of the general election.

(d) EFFECTIVE DATE.—Notwithstanding section 341, this section and the amendments made by this section shall take effect on the date of enactment of this Act.

Mr. MCCAIN. Mr. President, as I believe most of my colleagues know, Senator LIEBERMAN and I made a commitment to the families and the 9/11 Commission that we would ensure that all of their 41 recommendations were considered one way or another in this legislation. Because of the lack of scope of the Governmental Affairs Committee, there were several recommendations which were not considered.

Senator LIEBERMAN and I have already proposed and had adopted several amendments addressing the recommendations of the 9/11 Commission. There are three remaining issues. One of them is noncontroversial, which I will be proposing at this time and would hope would be voice voted since it is noncontroversial. Then there are two additional amendments concerning two additional recommendations of the 9/11 Commission. Both of those are controversial, so I would propose those amendments and then ask that they be set aside after they are placed for consideration. Then they would be disposed of after debate, discussion, or however the managers would like to dispose of those additional two amendments.

I hope I made myself somewhat coherent in that explanation.

The amendment that is at the desk addresses the 9/11 Commission's recommendation to improve the transitions between administrations. It is nearly identical to title IV of the 9/11 Commission Report Implementation Act, which we introduced on September 7, except that it does not include the security clearance-related provisions that were adopted by the Governmental Affairs Committee and are already in the underlying bill, S. 2845.

The Commission report states:

> Since a catastrophic attack could occur with little or no notice, we should minimize as much as possible the disruption of national security policymaking during the change of administrations by accelerating the process for national security appointments. We think the process could be improved significantly so transitions can work more effectively and allow new officials to assume their new responsibilities as quickly as possible.

As recommended by the Commission, this amendment is designed to help ensure an incoming President-elect has his or her national security team in place during a transition between administrations. The amendment would direct the outgoing administration to provide the President-elect, as soon as possible after the general election, a detailed, highly classified summary of current threats to the national security, major military and covert operations, and pending decisions on possible uses of military force.

It also provides that the President-elect should submit to the agency responsible for background checks the names of possible candidates for high-level national security positions as soon as possible after the date of the Presidential election. In turn, it requires that agency to undertake and complete, to the fullest extent possible, the background investigations necessary to provide appropriate security clearances to these individuals by the date of inauguration.

Finally, it urges the Senate to consider the nominations of top national security appointees as soon as possible, preferably within 30 days of the submission of a nominee.

As the chairman of a committee which has responsibility for the confirmation of many Presidential nominees, I assure my colleagues that I consider the Senate's advise and consent responsibilities to be very important. This amendment is not proposing that we shirk our duties in any way but that we act in the most efficient manner possible to thoroughly review the nominees to national security-related positions and allow for their confirmation so they can carry out the very important duties to which they are charged.

I recognize that some, including administration officials, would prefer that we go further. It has been suggested and I believe the House bill even proposes that if the Senate has not voted to confirm a nominee within 30 days after the nominee's name has been submitted, the President alone should have the power to make that appointment. I, for one, cannot support such a proposal, and I doubt that it would have the support of the majority of Members in this body.

Let me also point out that this amendment does not include the Commission's recommendations that the Senate should not require confirmation of such national security executive appointees below executive level 3. One of the reasons our amendment does not address that particular proposal is that upon review of such positions, we learned that it would eliminate the Senate's advise and consent duties for many important security positions that we believe merit the Senate's action. Executive level 4 includes all of the Assistant Secretary positions, many of which one would argue are important national security-related positions. Examples of these positions include the Assistant Secretary of Defense for Strategy and Threat Reduction, the Assistant Secretary of Defense for International Security Affairs, the Assistant Secretary of Defense for Force Management Policy, and others.

We believe that instead of removing the Senate's advise and consent obligations, a better approach would be for the Senate to fulfill its obligation in as expeditious a manner as possible. We hope this body will make a greater effort to hold confirmation hearings and report those national security-related nominations to the full Senate for swift consideration. To help spur swift Senate consideration, this amendment includes a sense of the Senate urging the President-elect to submit the nominations for high-level national security positions to the Senate by the date of the inauguration. It also calls for Senate committees to hold nomination hearings and consider these nominations to the fullest extent within 30 days of their submission.

The amendment before the Senate is but one proposal that we need to move

forward. The more critical proposal which we still need to act on is congressional reorganization and oversight over intelligence and homeland security. As the Commission very directly pointed out, not only are Government agency reforms needed, so too are institutional reforms within Congress. The Commission went so far as to call congressional oversight as ''dysfunctional.''

I remain hopeful that the bipartisan working group tasked by the leadership to develop a proposal for congressional restructuring will be successful. We owe it to the American public to fulfill our collective responsibilities. These are not normal times. We are at war.

I just want to say again, as a member of the Armed Services Committee, I have seen particularly the Defense Department, as well as other national-security-related positions, literally vacant for months and months and months. This is really not an acceptable situation, and it has grown worse and worse. Background security checks have lengthened in their time. The Senate doesn't get moving until a couple of months after we are in session. It is not fair. It is not fair to the nominees, it is not fair to the country, it certainly is not fair to the Departments that are deprived of the services of a new President's team. So I hope we will support this amendment.

I do not believe there is any controversy, so I ask for a voice vote before I move to a second amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I am proud to be a cosponsor of this amendment with Senator MCCAIN. This, again, is part of our attempt to implement through legislation as many of the recommendations of the 9/11 Commission Report as we possibly can.

This is a critical one. The Commission made a finding not usually focused on, as part of its work, that there is a danger because of the slowness of the transition from one administration to the next that America will be vulnerable. We have an enemy out there, a terrorist enemy, that follows this kind of information. I don't make a causal statement now, but the fact is that it was in 1993, the first year of the Clinton administration, when the World Trade Center was first attacked by terrorists with a truck bomb. And it was 2001, of course, when the Twin Towers and the Pentagon and other targets were attacked, in the first year of the Bush administration.

These are very good recommendations. I do want to point out simply that the underlying bill incorporates a related recommendation by the Commission to consolidate security clearance investigations in one agency and encourage reciprocity among agencies with respect to those clearances, which should help streamline what is now a frustratingly Balkanized system for determining who can have access to sensitive information.

This is very constructive. I do not believe it is controversial at all.

To reiterate, this amendment will help ensure that our vital national security capabilities do not suffer undue disruption during a presidential transition.

The 9/11 Commission recommended several measures to provide a swift hand-off between incoming and outgoing national security teams during a change in presidential administrations, and this amendment reflects those recommendations.

First, it directs the outgoing administration to provide the President-elect with a detailed, classified summary of critical operational threats, including major military or covert operations and pending decisions on the use of military force. The most important member of the national security apparatus is the Commander in Chief. This provision will help the President-elect begin focusing on these issues, and considering any imminent high stakes decisions that might need to be made, well in advance of the day he or she takes office.

The amendment also includes several measures to help assure that the President-elect will have a qualified team of national security advisors in place early in the new administration and who are able to hit the ground running.

It calls on the President-Elect to submit the names of likely high level national security personnel for security clearances as soon as possible after the election, and directs the appropriate Federal agency or agencies to complete the necessary investigations for those clearances as quickly as possible, preferably before the inauguration.

The amendment also urges the administration to submit nominees for the top national security positions by Inauguration Day and, if it does so, urges the Senate to act on those nominations within 30 days wherever possible. I think this language is a useful reminder to both the executive branch and the Senate that we should act to fill these positions with all deliberate speed—mindful that delay has costs, but dedicated as well to careful selection and review of nominees for these sensitive positions.

Finally, the amendment would allow major party candidates to seek security clearances for prospective transaction team members prior to the election, with the goal of having those clearances available the day after the election.

I should note that the underlying bill already incorporates a related recommendation by the Commission to consolidate security clearance investigations in one agency and encourage reciprocity among agencies with respect to clearances. This should help streamline what is now a frustratingly balkanized system for determining who can have access to sensitive information.

We do not include the Commission's recommendation to eliminate Senate confirmation for national security nominees below the Executive Schedule III pay grade. This category would include many Assistant Secretaries with critical policymaking responsibilities. Given the need for strong Congressional oversight of the intelligence community and other national security operations, it does not seem wise to remove this important layer of Congressional review and accountability.

I believe this amendment helps ensure that we do not loosen our footing in the war on terriorism at moments of presidential transition. I urge my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I join Senator LIEBERMAN in commending Senator MCCAIN for offering this amendment. It would make several changes to the Presidential transition process, changes that are consistent with the recommendations of the 9/11 Commission.

The Governmental Affairs Subcommittee, chaired by Senator VOINOVICH, held a hearing on this issue at which two of the Commissioners, Fred Fielding and Jamie Gorelick, discussed how the current transition process does not serve our country well in the handing over, the transitioning of important national security decisions from one administration to another. One reason is that it is such a slow process to get the new administration's team in place.

I believe this amendment would greatly improve the process. I know of no opposition to it. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 3806) was agreed to.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 3807

Mr. MCCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The bill clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 3807.

Mr. MCCAIN. I ask unanimous consent 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. Mr. President, this amendment may be subject to more debate and discussion and may require a recorded vote. I intend to propose this amendment, discuss it, and recognize that there will be further discussion about this amendment.

This amendment addresses the terrorist travel and screening sections of the 9/11 Commission report. Contained in this amendment are the recommendations found on pages 383–390

of the 9/11 Commission report. The text of this amendment is nearly identical to Title VI of S. 2774, which was introduced September 7.

In addition to working with the Commission on this amendment, Senator LIEBERMAN and I have sought the advice and counsel from as broad a range of interested parties as possible. Meetings have been held to address the concerns of many of the interested groups. While some may prefer that we do not address these provisions, that is simply not an option. We must act one way or the other on all of the recommendations in the Commission report.

Despite the hard work by the people at the Department of Homeland Security, it is apparent that our Government has just begun to carry out some of the reforms necessary to prevent terrorists from entering our country. Much remains to be done to target terrorist travel, combine our multiple screening systems and ensure that identification documents used to enter this country or to be used as feeder documents are trustworthy.

Additionally, more must be done to improve the training we provide to our immigration and consular officers. These people represent the first line of defense in the security of our borders. We must ensure that these officers have access to the best training, technology and information available.

According to the Commission Report:

Better technology and training to detect terrorist travel documents are the most important immediate steps to reduce America's vulnerability to clandestine entry.

By restricting terrorist access to travel documents, we increase the difficulty to travel into the United States. Our legislation aims to address this pressing issue by requiring the Secretary of Homeland Security to work with multiple Government agencies to develop a unified strategy for combining terrorist travel intelligence, operations and law enforcement into a cohesive effort to intercept terrorists, find terrorist facilitators, and constrain terrorist mobility domestically and internationally. All agencies responsible for guarding our Nation against terrorist attack must be on the same page in our approach to keeping terrorists out.

In order to efficiently screen those entering the United States, the multiple terrorist screening systems already in place must be integrated. Our legislation would require the Secretary of Homeland Security to develop a comprehensive screening system that brings together an integrated network of screening points that includes the Nation's border security systems, transportation system, and critical infrastructure and facilities. The Department of Homeland Security will begin to address this issue as they carry out the orders given in HSPD–11; however, our amendment represents a more comprehensive approach to uniting our various screening systems.

Fundamental to increasing the security of our borders is the quick and full implementation of US VISIT. I, like many of my colleagues, have been troubled by the pace in which this system has been rolled out. This legislation requires the Department of Homeland Security to develop and implement a plan for the accelerated and full implementation of the US VISIT system. Additionally, the amendment directs the Secretary of Homeland Security to implement a single, consolidated program designed to expedite the travel of previously screened travelers across the borders of the United States.

Lastly, this amendment would implement 9/11 Commission's recommendation that the Federal Government set standards for the issuance of birth certificates, driver's licenses, and other sources of identification. It has been well documented that many of the hijackers and their associates used counterfeit social security numbers and other fraudulent documents to obtain legal driver's licenses or State-issued ID cards—or were able to simply but fake ID's—which they then used to open bank accounts, rent cars, board airplanes, and attend flight schools. The ease with which these basic documents of American life can be counterfeited or obtained fraudulently is clearly a gaping hole in homeland security.

Since the September 11, 2001, terrorist attacks, at least half the States have passed legislation to tighten up their eligibility requirements and procedures for issuing driver's licenses and State ID cards. These initiatives are commendable and have improved security, but the report of the 9/11 Commission, and numerous reports by Federal agencies and other organizations have all concluded that additional measures must be taken to improve the security of driver's licenses and other forms of identification.

One study deserves special note. Over a 10-month period in 2002 and 2003, the Government Accountability Office—GAO—conducted an undercover investigation of State driver's license practices and procedures, visiting seven States—Arizona, New York, Michigan, South Carolina, Virginia, Maryland, California and the District of Columbia. In every jurisdiction, GAO investigators were able to obtain a driver's license or State-issued ID using fraudulent documents, including fake birth certificates and fake licenses from other States.

Our amendment would require birth certificates and driver's licenses to meet new minimum Federal standards in order to be accepted by a Federal agency for any official purpose. Minimum standards would be established for proof and verification of identity by the applicant, and to make the documents themselves more resistant to counterfeiting and tampering. The amendment also would require minimum standards for the processing of applications to address a widely recognized and growing problem of fraud within the offices that issue licenses and birth certificates, including the Arizona Department of Transportation's Motor Vehicle Division. The amendment would authorize grants to the States to assist them in meeting the new standards and to help States computerize and match their birth and death records.

To improve the security of social security numbers, the amendment would restrict the number of replacement cards that can be issued to an individual; require verification of records used to obtain an original social security card; and add death, fraud, and work authorization indicators to the social security number verification system. DHS and the Social Security Administration would also be tasked to take other steps to safeguard social security cards from counterfeiting and tampering, and increase enforcement against the fraudulent use of social security cards.

Today, incredibly, the Social Security Administration will issue any individual up to 52 replacement cards a year, a practice GAO has cited as increasing the potential for misuse and fraud. Roughly two-thirds of the 12.4 million social security cards issued by SSA in 2002 were replacement cards. I am also incredulous that the system SSA uses to verify social security numbers does not include notations for death, fraud, or work authorization. Employers often use the system to verify the social security number of new employees. Because there is no notation on the records for death, a social security number for a decreased individual used fraudulently by another person will be verified as valid.

This amendment would not mandate a national ID card. It would not infringe upon the right of the States to determine who can get a driver's license. It would not establish a national database with information on all drivers. And it would prohibit the establishment of a single design for driver's licenses and birth certificates. We believe it fulfills the recommendation of the 9/11 Commission without trampling on States' rights, privacy, or civil liberties.

We must face the fact, however, that rightly or wrongly, the driver's license is the basic form of ID in the United States. We use it to board airplanes, to purchase alcohol and cigarettes, to cash checks, and for a host of other purposes. We cannot ignore that the security of driver's licenses and State-issued ID cards affect homeland security. And we cannot ignore that driver's licenses can and indeed have been used as an enabler for terrorism. There is a legitimate Federal role in establishing minimum standards for these documents.

As the 9/11 Commission noted in its report, ''At many entry points to vulnerable facilities, including gates for boarding aircraft, sources of identification are the last opportunity to ensure that people are who they say they are and to check whether they are terrorists.'' Making these documents more

secure will help make our country more secure, and help prevent another terrorist attack on our country.

In closing, this amendment was carefully crafted to translate the commission recommendations into legislative language. I applaud the work of the commission and fully believe that the reforms they suggest in this section of their report will go a long way towards increasing the security and safety of all Americans.

The Commission released their report in late July. Their recommendations are taking on a life of their own. The Commission report is the No. 1 nonfiction bestseller on both the New York Times and the Washington Post bestsellers list. The public is taking their recommendations very seriously, and so too should we. The people will hold us accountable for our failure if we don't enact these recommendations.

I would like to point out a couple of additional facts.

Today, each State has a different set of requirements for driver's licenses. Some States allow more than 30 different documents to be used by applicants as proof of identity. How in the world can an employee at the department of motor vehicles be expected to verify the authenticity of the applicant?

I am amazed what some States will accept as proof of identity in supporting documents. For example, one State allows a picture from a high school yearbook to be used as one form of identification. Another State allows the school report card to be used as long as it is less than 1 year old. A third allows a snowmobile permit to be used as a form of identification. Several States allow permits for concealed weapons to be used in getting a driver's license. One State still has licenses without a photograph of the license holder.

I recognize that we are on very interesting ground on this issue. On the one hand, we are trying to balance people's civil liberties. We are trying to make sure everyone has a right to privacy. We are trying to make sure there is no national database which would be used to follow people around the country. At the same time, if someone can fraudulently obtain a driver's license and that driver's license is used in obtaining access to places where acts of terror can be committed, we have to try to see that does not happen.

What we have done with this amendment is try to carefully balance the requirement for some better way of assuring identity and at the same time not infringe on Americans' civil liberties. That is why I believe this amendment probably will be the subject of some debate and discussion and will probably require a recorded vote.

If somebody has a better idea, I would like very much to hear it, but I do not know that there is a better idea. We have done extensive research, have had extensive discussions and an extensive amount of investigation building on the 9/11 Commission's findings and recommendations.

It seems to me that this is a reasonable approach. But to have the status quo in America where people can easily and fraudulently acquire identification which allows them then to be able to commit acts of sabotage, espionage, or terror and risk the lives of others is not a status quo by which I think we can abide.

I thank my colleagues for their consideration. I look forward to the debate.

If the distinguished manager would perhaps illuminate as to how she would like to handle this particular amendment, I would be agreeable to whatever the manager's procedure would be.

Ms. COLLINS. Mr. President, once again, I thank the Senator from Arizona for bringing up another series of recommendations made by the 9/11 Commission.

This is a very broad amendment. There is much in it which I support, and I agree with the Senator that there is a significant problem with fraudulent documents, including driver's licenses. Nevertheless, several groups, including the National Governors Association, the National Council of State Legislatures, and the American Civil Liberties Union, have expressed concerns regarding the degree to which some of the provisions in this amendment would infringe on the powers traditionally exercised by the States to set standards in the area of driver's licenses, for example. Therefore, I would like to suggest to the Senator that we continue working on these issues to see if we can resolve some of these concerns and that we set this amendment aside for the time being to allow for that.

Mr. MCCAIN. I thank the manager. At this time I will not be proposing a further amendment.

Mr. REID. Mr. President, if I could get the attention of the manager of the bill.

The PRESIDING OFFICER. Does the Senator from Maine yield the floor?

Ms. COLLINS. I yield the floor temporarily.

Mr. REID. Mr. President, we have a number of Members in and out of the Chamber who want to know when they can offer amendments and/or speak. Senator CORNYN is here, Senator FEINSTEIN, Senator LAUTENBERG is here. I wonder if at least for these three can we get a queue set up so they will know when they can be expected to speak.

Ms. COLLINS. Mr. President, I suggest, based on the conversations I have had with all who are present in the Senate now, we first yield to the Senator from California, who is going to discuss her proposal while we are continuing to work at the staff level on the language of her amendment; that we then go to the Senator from Texas, who has two amendments he would like to discuss—again, we are still working with the Senator from Texas—and we then proceed to the amendment Senator LAUTENBERG has proposed.

Mr. REID. If I could be recognized to further this dialog, I wonder if we could then have a consent agreement that the Senator from California be recognized for 10 minutes, the Senator from Texas be recognized on his two amendments for no more than 15 minutes, and the Senator from New Jersey would be recognized after that.

I ask unanimous consent that the Senator from California be recognized for 10 minutes; following that, the Senator from Texas be recognized for 15 minutes; and Senator LAUTENBERG be recognized for 15 minutes to offer his amendment.

Ms. COLLINS. Mr. President, that unanimous consent agreement would work well from my perspective.

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

Ms. COLLINS. We will now then go to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 3718

Mrs. FEINSTEIN. Mr. President, I thank the chairman and ranking member of the committee. I have indicated I am withdrawing one amendment, No. 3719, which clarifies the tactical intelligence part of the bill. I don't believe that is necessary. It has been withdrawn. I am also withdrawing amendment No. 3715 to strike the prohibition on co-location.

At this time I call up and then set aside amendment No. 3718.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 3718.

Mrs. FEINSTEIN. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To improve the intelligence functions of the Federal Bureau of Investigation)

On page 4, line 4, insert ''foreign intelligence'' after ''means''.

On page 4, strike lines 5 through 16 and insert the following:

(2) The term ''foreign intelligence'' means information gathered, and activities conducted, relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(3) The term ''counterintelligence'' means—

(A) foreign intelligence gathered, and activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities; and

(B) information gathered, and activities conducted, to prevent the interference by or disruption of foreign intelligence activities of the United States by foreign government or elements thereof, foreign organizations, or foreign persons, or international terrorists.

On page 6, line 12, strike ''counterintelligence or''.

On page 7, beginning on line 5, strike ''the Office of Intelligence of the Federal Bureau of Investigation'' and insert ''the Directorate of Intelligence of the Federal Bureau of Investigation''.

On page 8, between lines 6 and 7, insert the following:

(8) The term ''counterespionage'' means counterintelligence designed to detect, destroy, neutralize, exploit, or prevent espionage activities though identification, penetration, deception, and prosecution (in accordance with the criminal law) of individuals, groups, or organizations conducting, or suspected of conducting, espionage activities.

(9) The term ''intelligence operation'' means activities conducted to facilitate the gathering of foreign intelligence or the conduct of covert action (as that term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 413b(e)).

(10) The term ''collection and analysis requirements'' means any subject, whether general or specific, upon which there is a need for the collection of intelligence information or the production of intelligence.

(11) The term ''collection and analysis tasking'' means the assignment or direction of an individual or activity to perform in a specified way to achieve an intelligence objective or goal.

(12) The term ''certified intelligence officer'' means a professional employee of an element of the intelligence community engaged in intelligence activities who meets standards and qualifications set by the National Intelligence Director.

On page 120, beginning on line 17, strike '', subject to the direction and control of the President,''.

On page 123, between lines 6 and 7, insert the following:

(e) DISCHARGE OF IMPROVEMENTS.—(1) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) through the Executive Assistant Director of the Federal Bureau of Investigation for Intelligence or such other official as the Director of the Federal Bureau of Investigation designates as the head of the Directorate of Intelligence of the Federal Bureau of Investigation.

(2) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) under the joint direction, supervision, and control of the Attorney General and the National Intelligence Director.

(3) The Director of the Federal Bureau of Investigation shall report to both the Attorney General and the National Intelligence Director regarding the activities of the Federal Bureau of Investigation under subsections (b) through (d).

On page 123, line 7, strike ''(e)'' and insert ''(f)''.

On page 123, line 17, strike ''(f)'' and insert ''(g)''.

On page 126, between lines 20 and 21, insert the following:

SEC. 206. DIRECTORATE OF INTELLIGENCE OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) DIRECTORATE OF INTELLIGENCE OF FEDERAL BUREAU OF INVESTIGATION.—The element of the Federal Bureau of Investigation known as of the date of the enactment of this Act is hereby redesignated as the Directorate of Intelligence of the Federal Bureau of Investigation.

(b) HEAD OF DIRECTORATE.—The head of the Directorate of Intelligence shall be the Executive Assistant Director of the Federal Bureau of Investigation for Intelligence or such other official within the Federal Bureau of Investigation as the Director of the Federal Bureau of Investigation shall designate.

(c) RESPONSIBILITIES.—The Directorate of Intelligence shall be responsible for the following:

(1) The discharge by the Federal Bureau of Investigation of all national intelligence programs, projects, and activities of the Bureau.

(2) The discharge by the Bureau of the requirements in section 105B of the National Security Act of 1947 (50 U.S.C. 403–5b).

(3) The oversight of Bureau field intelligence operations.

(4) Human source development and management by the Bureau.

(5) Collection by the Bureau against nationally-determined intelligence requirements.

(6) Language services.

(7) Strategic analysis.

(8) Intelligence program and budget management.

(9) The intelligence workforce.

(10) Any other responsibilities specified by the Director of the Federal Bureau of Investigation or specified by law.

(d) STAFF.—The Directorate of Intelligence shall consist of such staff as the Director of the Federal Bureau of Investigation considers appropriate for the activities of the Directorate.

Mrs. FEINSTEIN. I reiterate my strong support for this bill and the balance that has been struck by the committee in the drafting of this bill. It strikes the right balance. I am pleased to be an original cosponsor.

In my remarks on Monday, I mentioned I was going to be submitting an amendment concerning the relationship between the FBI foreign intelligence functions and the national intelligence director. I thank both the majority and the ranking member staff for working with my staff to work out this amendment. It will be worked out and it will be the chairman's intent to present this amendment for unanimous consent.

However, I will clearly state the intent of the amendment. The FBI functions as part of the intelligence community in the gathering, analyzing, and disseminating of information about the plans, intentions, and capabilities of our foreign enemies, including, most importantly, counter-terrorists. That effort, in my view, should be under the overall supervision of the national intelligence director.

Let me be clear, though, this amendment does not mean the national intelligence director should run or control operations inside the United States. When the FBI, under the operational control of the FBI director and the Attorney General, works as a foreign intelligence agency, it should do so as part of that community under the general guidance of the national intelligence director.

An excellent example of this issue is now part of the extensive record of structural intelligence failure prior to the September 11 attacks, the way the intelligence community handled, or I should say mishandled, the so-called Phoenix document information and the Moussaoui information. Here we had in two different places FBI agents acquiring factual information which is of clear foreign intelligence value: that foreign individuals, associated with foreign terrorist organizations, may have been learning to fly passenger planes. At the very same time, the rest of the intelligence community had information that al-Qaida was preparing to strike against the United States and also that there had been past consideration of the use of airplanes in an attack methodology.

Putting together these two disparate pieces of information is the business of an effective intelligence community. But it did not happen, in part, I believe, because the FBI part of the communication was not linked up with the Central Intelligence Agency and the National Security Agency parts of the community.

The bill before the Senate goes far toward remedying this by placing the FBI foreign intelligence elements under the overall supervision of the national intelligence director. I am concerned the bill presently contains ambiguities that, if left in, will cause confusion in the future. That is because the bill incorporates, with no change, current law which defines the role of the FBI intelligence activities. However, that law is confusing, it is internally inconsistent, and I believe it is the source of many of the problems which beset the FBI as part of the intelligence community.

This amendment does three basic things to fix this. I want the record to reflect that. It clarifies critical definitions in the law. It makes a small alteration in the current law to make clear that the term of art ''counterintelligence'' is a subset of foreign intelligence, not an alternative to foreign intelligence.

Second, it makes clear that when the FBI is engaged in law enforcement, it is not part of the national intelligence program or under the NID supervision, but removes the word ''counterintelligence'' from this so-called carve-out language. This is critical because this language in existing law was the confusing foundation upon which much of the wall between the FBI and the rest of the intelligence community was built.

This amendment creates a directorate of intelligence in the FBI. As written presently, the bill places the activities of the Office of Intelligence of the FBI clearly within the national intelligence program. This is good, but because the Office of Intelligence has no statutory basis, it could be rendered useless in the future if that office is removed or changed by a future FBI director.

This amendment renames the office the Directorate of Intelligence and gives it a clear basis in law.

Finally, this amendment introduces some clarifying language to ensure that the section governing ''FBI improvements'' is read to ensure that these improvements come as part of a larger, coordinated effort, led by the national intelligence director to improve the standards and practices of the entire intelligence community.

It does this by ensuring that the FBI Director's improvement program is

guided by the national intelligence director. And it defines a ''certified intelligence officer''—that is a term introduced for the first time in the underlying bill—to make sure that ''certification'' means meeting intelligence community standards, developed by the national intelligence director.

The bottom line is that the FBI's intelligence functions must be part of a larger effort, guided by a strong leader, and linked carefully with all the other agencies and Departments in the intelligence community.

There are still two parts of this amendment that are being worked out by staff. I appreciate their hard work very much and thank them. I also would like to thank the chair and the ranking member for their cooperation. I am very hopeful this amendment can later be adopted by unanimous consent.

I thank the Chair.

Mr. President, I ask unanimous consent that amendment No. 3718 be set aside for the present time.

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

Mrs. FEINSTEIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, I thank both managers of the bill, the chairman of the Governmental Affairs Committee and the ranking member, Senator LIEBERMAN, for the great work they are doing on this bill. I know it is not easy, but it is vital that we achieve the kinds of reforms the 9/11 Commission and the Senate Select Committee on Intelligence and others, over the years, have said would help make our Nation stronger.

Yesterday, I proposed an amendment to this bill which dealt with a relatively narrow area but one I think is certainly relevant to what the 9/11 Commission recommended and, indeed, to the ultimate purpose of making America a safer place. Unfortunately, it is one that tends to be overlooked. That does not have to do with our physical security, potential cause of death and injury to the American people on our own soil but, rather, a body blow to our economic security.

Indeed, one of the consequences of 9/11 was not just the terrible loss of life and injury but also the disruption to our economy, which resulted in chaos and many people being laid off work because of the economic disruption.

This amendment had to do with cyber-security. I know it is something we do not think about very much but, indeed, now that we are so dependent upon computers for our way of life, to enhance our productivity, to communicate with one another, to do business, we somehow perhaps take for granted that they will always be secure. And particularly when it comes to our water utilities, our communications systems, our transportation systems, and financial networks, there is a very real danger that cyber-terrorists, those who would try to attack and dismantle and disrupt our financial, transportation, communications, and utility networks could wreak a terrible blow to the American economy.

Now, my interest in this subject dates back several years to when I convened a panel in Texas, the State Infrastructure Protection Advisory Committee, as attorney general. We met hundreds of hours with both private and public sector participants, as well as people in the academic community, to try to figure out what we could do, No. 1, to identify what the problem was, and what we could do to make it better.

Well, what we found is that in many instances because of liability concerns, because of concerns about trying to achieve and maintain public confidence in one's business or product, that the private sector was much better prepared than the Government was for cyber-attacks.

I am pleased to say that Congress has begun to work to address this critical need for security in our computer networks by passing the Federal Information Security Management Act, or FISMA. Its purpose is to improve the information security of our computer networks and support Federal agencies by requiring top-to-bottom agency planning for information security and compliance with mandatory standards and benchmarks developed by the National Institute of Standards and Technology.

FISMA also requires Federal agencies to conduct an annual evaluation of their computer security programs and to submit an effectiveness report to the Office of Management and Budget, the OMB.

For several years, the House Government Reform Subcommittee, chaired by Congressman ADAM PUTNAM, the Technology, Information Policy, Intergovernmental Relations and the Census Subcommittee, has been working with the General Accounting Office to produce a report card for 24 Federal agencies to see how well they are complying with congressional intent as expressed in FISMA, the Federal Information Security Management Act.

What I would like to show you, Mr. President and my colleagues, is the report card that has been generated because I think it is indicative of the problems we have had and, indeed, the problems we still have, and how modest our improvement has been.

Indeed, you can see from this chart showing the Federal computer security report card, issued on December 9, 2003, that overall Governmentwide, Government agencies, when it came to security of their computer systems, got a D, not a grade any one of us would be proud to take home. But I must say, as bad as a D is, in 2003, it is better than the F that many agencies got in 2002, before Congress began to get involved in trying to upgrade the security of our computer networks.

But you can see, some of these agencies have improved from an F to a D. Indeed, the Department of Defense in 2002 had an F. In 2003, it got a D. The Small Business Administration went from an F to a C−. But we have some—the Department of the Interior, the Department of Agriculture, the Department of Housing and Urban Development, the Department of State—that in 2002 got an F and in 2003 got an F.

So I am not sure Congress is as successful as we should be or as we would like to be in getting the attention of the people who work in those agencies and who should be committed to carrying out this information security provision and protecting our Government computer systems from the potential of cyber-attack and the potential disruption to our economy.

But I want to say in conclusion on that matter how much I appreciate the willingness of the Senator from Maine, the distinguished chair of the Governmental Affairs Committee, and the Senator from Connecticut, the distinguished ranking member of that committee, to work with us and consider this amendment and, indeed, to agree that the amendment should go forward because I think this is an easily overlooked but, nevertheless, a very important part of our security.

Mr. President, I have two other amendments that have not yet been filed that I will obviously not call up but I would like to just preview for my colleagues. I have talked, also, to the chairman of the bill and the ranking member. We are going to continue to work with them and their staffs to try to make sure these matters can be worked out, if that is at all possible, much in the same manner we worked out this cyber-security provision.

These matters have to do with other recommendations of the 9/11 Commission. Here again, the job that is before us is vast, indeed, as reflected by the 41 different recommendations of the 9/11 Commission and the need for intelligence reform reflected in the bill before us.

But perhaps it is because of the perspective I have as a Senator from the State of Texas, which has the longest border of any State with the country of Mexico—and, of course, beyond Mexico on to Central America and South America—the source of many concerns relative to human smuggling and to enforcement of our immigration and other laws related to those issues.

First, we intend to offer an amendment to increase the penalties that can be assessed upon a successful prosecution for the crime of human smuggling. As the 9/11 Commission said: There is evidence to suggest that, since 1999, human smugglers have facilitated the travel of terrorists associated with more than a dozen extremist groups and that human smugglers clearly have the credentials necessary to aid terrorist travel. They also noted that many countries, because of their lack of security, make human smuggling an attractive avenue for terrorists in need of travel facilitation.

In terms of our southern border, Under Secretary of the Department of Homeland Security Asa Hutchinson has told me and others that there is no documented instance of a terrorist actually coming across our southern border, but the truth is, it is very porous. If the motivation is high enough and the price is right, the same person who can be smuggled across the border for economic reasons because they want to come to work in this country outside of our laws, someone from a country other than Mexico, perhaps an Islamic extremist, somebody who wanted to take advantage of that porous border would, indeed, hire a human smuggler to bring them across our southern border into the United States and do us harm.

It is important that our Federal policy and our criminal laws reflect both the strongest possible concern about this issue and express the will of Congress that human smugglers will be punished in a way commensurate with the threat they pose to the American people.

The truth is, we cannot ignore this issue and believe that it is just related to people who want to come here and work. Money talks. And where human smugglers exist, they will go to the highest bidder to deliver their services in a way that could indeed deliver terrorists on to our soil. That relates to one amendment on which we will continue to work with the distinguished chairman and ranking member and their staffs to see if we can work out an agreement.

The next amendment relates to another provision in the 9/11 Commission report. The Commission, under the subheading ''Immigration Law and Enforcement,'' said:

> There is a growing role for state and local law enforcement agencies. They need more training and work with federal agencies so they can cooperate more effectively with those federal authorities in identifying terrorist suspects.

Again, on page 383 of the 9/11 Commission report, the Commission said:

> The challenge for national security in an age of terrorism is to prevent the very few people who may pose overwhelming risks from entering or remaining in the United States undetected.

This amendment, which we intend to file and call up later—and we will continue to work with the managers of the bill on it—has to do with the authority of State and local law enforcement authorities to detain a certain narrow class of persons who are illegally in the country. Those relate to what I would think are three noncontroversial categories: Those who are absconders—in other words, 80,000 felons who are in the country illegally and running from justice. We don't have the capacity to know exactly where they are now because we have, unfortunately, ignored the crisis in our immigration enforcement for many years.

Indeed, more than that, there are approximately, according to some guesses, between 300,000 and 400,000 people under final orders of deportation in the United States, and we simply don't have the Federal authorities sufficient to locate them and enforce final orders of deportation.

This bill would narrowly address those who are under final orders of removal, those who have signed voluntary departure agreements, and those who have revoked visas. It would not, as some previous legislation that has been filed both here and in the House, offer an opportunity for local and State law enforcement officials to enforce a whole broad range of our immigration laws. This relates to a narrow group who are absconders from justice, including convicted felons and others, and reaffirms the authority of State and local law enforcement both to enforce those violations in the normal course of carrying out their duties and will make sure that we get the army of additional law enforcement authorities to assist the current Federal authorities who are mainly located along our border region when it comes to our border security and homeland security interests.

Finally, this bill would direct the Department of Homeland Security to take custody within 48 hours of these persons so detained by State or local officials or else pay the locality to detain these particular class of aliens. Currently, the process is that once someone has been identified and perhaps detained for a violation of one of a host of our immigration laws, the common practice is to tell them to come back for a future hearing for deportation. It is no surprise to any of us that about 90 percent of them melt into the landscape and are never heard from again.

Simply put, we need to have law enforcement authorities at all levels—national, State, and local—join forces, as the 9/11 Commission recommended, to deal with this certain narrow class of people who are under final orders of deportation from our country, those who have signed voluntary departure agreements, and those who have had their visas revoked. These are people who have exercised any right they may have to due process and should have no further recourse.

I look forward to working with the manager and the ranking member and their staffs to try to see if we can work this out.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from Texas for his comments. We look forward to working with him on his two additional amendments. We were pleased to be able to pass his first amendment to this bill last night. We appreciate his cooperation.

In consultation with the Senator from Nevada, the Democratic whip, I ask unanimous consent that the consent request previously entered into be altered so that Senator BYRD would be recognized for up to 25 minutes prior to Senator LAUTENBERG offering his amendment.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, Senator BYRD likely will not use that much time.

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

The Senator from West Virginia.

PEOPLE DESERVE THE TRUTH

Mr. BYRD. I thank the Chair. I also thank the distinguished Senator, Ms. COLLINS, and our distinguished whip, Mr. REID, who is always to be found on the floor or near it, always ready to assist us, any of us on both sides of the aisle. I thank the distinguished manager of the bill on this side of the aisle for his diligence, for his hard work always in his committee and outside his committee. He is ever ready.

Mr. President, I take the floor on a point of personal privilege on behalf of the people of West Virginia.

Growing up, we all heard the legend—which was probably mythical—of young George Washington. As the story goes, his father, after seeing a tree chopped down on their land, approached young George and asked if he was responsible. The story continues that the boy responded: ''Father, I cannot tell a lie. I cut down that cherry tree.''

The boy who grew up to be President knew the value of truth. Unfortunately, however, when it comes to Presidential politics these days, telling the truth is seriously out of style.

That point was brought home sharply to me last weekend when I traveled to West Virginia, where I learned of a scurrilous campaign being waged in West Virginia to scare voters—think of it—to scare West Virginia voters into registering and voting Republican. Incredibly, the weapon being brandished is the Holy Bible itself. If ever there were one book that should never be used for political gain, if ever there were one book that should never be the subject of lies and deception, it is the Bible, which I hold in my hand.

Over my 52 years of serving in the Congress, there have been occasions—few in number—when I brought the Holy Bible on the floor of the body in which I have spoken. I don't claim to be a minister. I would not be worthy of that title. But this is the Holy Bible. It is the King James version, first published in 1611 under the reign of King James I. I will only read this Bible at my house; I don't read any other Bible. Again I say, if ever there were a book that should never, ever be used for political gain, that should not be the subject of deception on the part of politicians, or anybody else, it is the Bible. Yet that is exactly what is happening today. I found, last weekend, that it was happening in West Virginia. I read somewhere that it was also happening in Arkansas.

Two weeks ago, the Republican National Committee sent a mass mailing

to West Virginia suggesting that liberals—in other words, everyone but Republicans, I suppose—are out to ban the Bible. Get that: Out to ban the Bible. Can you imagine? They are out to ban the Bible. What a ridiculous claim. It is foolish on its face; it is absolutely ridiculous on its face. It is a flatout, no-doubt-about-it, silly, juvenile, sophomoric charge. The Republican National Committee is spreading this tripe—it is putrid, this tripe—to smear Democrats. The President ought to demand that the Republican National Committee apologize to the people of West Virginia.

The hypocrisy of the Republican National Committee's desperation tactic is an insult—an insult—to the intelligence of voters in my State. The ninth of the Ten Commandments, passed down from God to Moses, states:

Thou shalt not bear false witness against thy neighbor.

What could be more false? What could be more false than an advertisement implying that so-called liberals want to ban the Bible? I never knew I was a liberal. When I came to this Senate, I was to the right of Barry Goldwater, and I always considered myself to be a conservative in most things—certainly most things, other than matters affecting the economy. The political hacks behind that blasphemous flyer should be required to reread the Book of Exodus. There is no free pass from the Commandments in an election year. They are still there. There is no waiving of the Commandments in an election year.

All West Virginians, from the northern tip of the State to the southern tip, from the east to the west, should be insulted by such dirty tricks on the part of the Republican National Committee. Paid henchmen who talk about Democratic politicians who are eager to ban the Bible obviously must think that West Virginians are gullible, ignorant fools. They must think that West Virginians just bounced off the turnip truck. They must think that spreading nonsense about banning the Bible is a sure-fire way to get votes in an election year. But the people of West Virginia are smarter than that. We are not country bumpkins who will swallow whatever garbage some high-priced political consultant makes up. West Virginians are smarter than that, and they deserve an apology from the Republican National Committee for this insulting mailing.

Here it is. Take a look at this. Those of you who are viewing this Senate floor through those electronic lenses, look at this: ''The Bible, banned. This will be West Virginia.''

I suppose the same flyer was used in Arkansas, with a few words changed from West Virginia. Here it is again: ''if you don't vote—if you stay away from the polls—the Bible, banned.''

Such tripe. That is what West Virginians think of that. As a Senator, I am appalled by the Republican National Committee's utter ignorance of the Constitution.

I am appalled, let me say it again, by the Republican National Committee's utter ignorance of this Constitution, the Constitution of the United States, which I hold in my hand. Our Constitution—let me say to the people of West Virginia and the people of Arkansas—our Constitution protects this Bible. So never fear, never fear that the Bible will be banned.

The first amendment begins:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . .

And yet this flier, paid for by the Republican National Committee, features a picture of the Bible, just as I have shown Senators—let me show it again—with the word ''banned'' across its cover. The people of West Virginia should not have to put up with such trash. It is a crass insult to the people and to their faith.

IRAQ

But false claims seem to be the modus operandi in politics these days. The truth gets tailored to fit the occasion. Nowhere is this more evident than on the subject of Iraq. Whether it be weapons of mass destruction or an imminent threat or mushroom clouds, the reason for the war changes faster than the weather. Talk about flip-flops. There you have it.

The White House said that our troops would be welcomed with flowers, and yet our soldiers saw mortar attacks and suicide bombings. The White House said the world would be with us in the war and the reconstruction in Iraq, but the coalition of the willing was never that large and has become the coalition of the wilting. How can the American people trust a White House that cannot get its stories straight? The flipping and the flopping from this slippery fish crowd is a sight to behold.

Even now, the White House is trying desperately to portray Iraq as a nation that is getting back on its feet. Listen to the September 29 Washington Post. The headline: ''Growing Pessimism on Iraq. Doubts Increase Within U.S. Security Agencies.''

Let me read just the first few paragraphs:

A growing number of career professionals within national security agencies believe that the situation in Iraq is much worse, and the path to success much more tenuous, than is being expressed in public by top Bush administration officials, according to former and current government officials and assessments over the past year by intelligence officials at the CIA and the Departments of State and Defense.

While President Bush, Defense Secretary Donald H. Rumsfeld and others have delivered optimistic public appraisals, officials who fight the Iraqi insurgency and study it at the CIA and the State Department and within the Army officer corps believe the rebellion is deeper and more widespread than is being publicly acknowledged, officials say.

People at the CIA ''are mad at the policy in Iraq because it's a disaster, and they're digging the hole deeper and deeper and deeper,'' said one former intelligence officer who maintains contact with CIA officials. ''There's no obvious way to fix it. The best we can hope for is a semi-failed state hobbling along with terrorists and a succession of weak governments.''

Yesterday's New York Times reports—what I just read was from yesterday's Washington Post—yesterday's New York Times reports that there have been 2,300 attacks by insurgents. They have been directed against civilians and military targets in Iraq in a pattern that sprawls over nearly every major population center outside the Kurdish north.

So there you have it—an average of 80 attacks against our forces each day. The situation in Iraq is far more dire and the future far more uncertain than White House officials are ever going to admit, and so the lives of America's sons and daughters are on the line in Iraq, and still we hear happy talk about success right over the horizon.

Misleading scenarios about Iraq or ludicrous nonsense about banning the Bible insult the values and the intelligence of West Virginians and the millions of other Americans who share the beliefs of West Virginians. Such stuff must not be tolerated. The people of this country know about honesty, and they must start demanding it from their leaders.

Mr. President, I yield the floor.

Mrs. LINCOLN. Mr. President, I thank the distinguished Senator from West Virginia for his remarks today. I have tremendous respect for his belief and his knowledge of the Constitution. I share that belief and I only hope my knowledge can at some time reach the level his is in terms of understanding and being able to expound on the Constitution that is such a treasure and a blessing for this country.

More importantly, I share in his belief and his execution in the teachings of the Bible. Like the Senator from West Virginia, I try very hard each and every day to follow the Ten Commandments, which are a cornerstone in the faith that we both practice in our Christian religion. I try hard to witness my faith each and every day in my actions and in my words. Among the Commandments, ''thou shalt not bear false witness'' is one I work desperately on. In our modern language, we know it as ''do not tell lies,'' something we were taught by our parents and we were taught by our faith.

Now, I have not been in public service nearly as long as the Senator from West Virginia, but I have been around long enough to know that people say things in campaigns that come awfully close to breaking that Commandment. I have learned to turn the other cheek and brush aside the little white lies of political commercials and direct mail pieces. I do not know if brushing aside and turning that cheek at this juncture is the most appropriate thing to do, because I think we find ourselves at a time when that has definitely been taken to the extreme.

The mailing the Republican National Committee sent to the people living in my home State of Arkansas, as well as

those in the State of West Virginia, goes beyond any political smear I have witnessed. I hope my colleagues in this great body, as members of that committee, would denounce such abusive action because I think it is completely inappropriate. To insinuate that members of the Democratic Party, simply because they are Democrats, would ban the Bible is absolutely absurd. It is outrageous, and it is outrageous that we in this Nation would stand for that.

I am a Democrat. I was raised in a Democratic family. But I also grew up with the opportunity and encouragement to find my own belief and to reach out and find out, Who am I? What do I stand for? What is it that I want to contribute to this great world?

I realized, not only as a Democrat but at a very early age, that I was first and foremost a Christian. I take that very seriously. I take my witness and my commitment to my faith as a part of my everyday walk. I try hard to walk my talk each and every day. I fight hard, both personally and professionally, every day to fulfill my witness to my faith, to care for those who are less fortunate than I am, to reach out and be kind to those who need kindness, to be able to look beyond the cover of what I might see in someone and look for the best of what God created in that human being as well.

I know that we are all a part of God's creation on this Earth. I know that my God is a loving God, one who believes in me and who wants everyone in this body to reach their potential. But I also know, through my faith, that reaching that potential means being able to have that same kind of unconditional Christian love for my fellow man.

It is amazing to me that we would see such action, such assumption, and such disregard for the intelligence of the people of our States.

My faith has always been an important part of my life because I was raised in a Christian family, with parents who had strong principles, who had tremendous love, and continue to, and an ability to share with me what that love could produce in my life if I, too, were willing to share it with others.

I worked as a youth group director while I was in college. I taught Sunday school while I worked here on the Hill as a staffer—in Washington, DC. I contribute time to homeless shelters here in DC, and at home, working with the Red Cross through many kinds of devastating natural disasters in my home State—finding incredible opportunities where I could provide that love and that assistance to my fellow man.

My husband Steve and I make sure our family is regularly at church, whether we are here in the Washington area or at home in Arkansas with our family. There is rarely a meal that goes by in my home where we don't all join hands and say a prayer of thanksgiving and gratefulness for all of the many blessings in our life. We end each day saying prayers with our boys when they are tucked into bed. We talk about the day's events and how, through those prayers, we can ask for the assistance for others and to improve ourselves and provide the unbelievable talents God has given us to be a great part of making this world a better place.

I am not the only one, as a member of my political party, whose faith is important to them. There are other members of my political party who are of other faiths who take their faith very seriously. There are other Christians in my political party who take their faith very seriously and act it as a real part of their everyday life.

It is unbelievable to me that the Republican Party would try to claim that members of my party would want to ban the Bible. What do they base that on? Where is their credibility to say that? What evidence is there that would lead them to say that and to use that in such an important part of what we stand for in this Nation, the political process of being able to elect our leaders? I don't know. I don't know where that comes from.

The Senator from Massachusetts, who is running for President, has told the American people that his faith is important to him as well. He says he is a man of God, and I believe him. Unlike some other political candidates, he has not sought to gain political advantage by boasting of his faith or wearing it on his sleeve, but I do believe his actions in defending so many of his fellow men, children, low-income families, the elderly, are certainly clear examples of how important his responsibility to his faith is to him.

Maybe he was raised in a region of the country where people are not so outspoken about their faith, just as they are more reserved in most other aspects of their lives. I was raised in the South where we love to talk about it, where it is an important part of who we are and we want to talk about it, where we like to hug and we like to be close. There is no doubt that there are differences in the regions of our country in how we express things. Sometimes my colleagues say I even need a translator because my accent is so thick. There is nothing wrong with the differences in the regions of this country. There is nothing wrong in the different ways we choose to show our faith. But there is something deeply wrong with people using the political process to accuse people of not being true to their faith.

The man from Massachusetts, maybe he is quiet, but less visible expressions of faith do not warrant such judgmental political statements from the Republican Party. I hope, I hope deeply, that the Republican Party, which has produced this pamphlet that was so well described by my colleague from West Virginia—I hope there will be an apology for their claims that Democrats want to ban the Bible and the inferences that Democrats, for some reason, cannot have a faith as close or as deeply held as the other party. I find that to be the pit, the absolute bottom of what is wrong in the political process.

I thank you, Mr. President, for the opportunity to come to the Senate floor and, even as a southerner, express something that maybe I am not as well equipped to express as others, but I promise you, it is not less heartfelt than any other Christian Member of this body.

I yield the floor.

Mr. LIEBERMAN. Mr. President, I thank the distinguished Senator from Arkansas and tell her, I, No. 1, never have any trouble understanding her, and, No. 2, I always enjoy giving her a hug.

Mrs. LINCOLN. I thank my colleague.

The PRESIDING OFFICER. Under the previous order, the Senator from New Jersey is recognized for 15 minutes.

Mr. LAUTENBERG. I thank the Chair.

Mr. President, I thank our esteemed friend and colleague, the Senator from West Virginia, for his words—always words of wisdom and words of rage when he sees such an affront to the basic tenets of our society.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

Mr. LAUTENBERG. Mr. President, what is the pending question? Do we have an amendment pending?

The PRESIDING OFFICER. There is an amendment pending.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent to lay aside the pending amendment.

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

AMENDMENT NO. 3802

Mr. LAUTENBERG. Mr. President, I call up amendment No. 3802 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself, Mrs. CLINTON, Mr. FEINGOLD, and Mr. CORZINE, proposes an amendment numbered 3802.

Mr. LAUTENBERG. 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 as follows:

(Purpose: To stop corporations from financing terrorism)

At the appropriate place, insert the following:

SEC. ___. TERRORIST FINANCING.

(a) CLARIFICATION OF CERTAIN ACTIONS UNDER IEEPA.—In any case in which the President takes action under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to prohibit a United States person from engaging in transactions with a foreign country, where a determination has been made by the Secretary of State that the government of that country has repeatedly provided support for acts of international terrorism, such action shall apply

to any foreign subsidiaries or affiliate, including any permanent foreign establishment of that United States person, that is controlled in fact by that United States person.

(b) DEFINITIONS.—In this section:

(1) CONTROLLED IN FACT.—The term ''is controlled in fact'' includes—

(A) in the case of a corporation, holds at least 50 percent (by vote or value) of the capital structure of the corporation; and

(B) in the case of any other kind of legal entity, holds interests representing at least 50 percent of the capital structure of the entity.

(2) UNITED STATES PERSON.—The term ''United States person'' includes any United States citizen, permanent resident alien, entity organized under the law of the United States (including foreign branches), wherever located, or any other person in the United States.

(c) APPLICABILITY.—

(1) IN GENERAL.—In any case in which the President has taken action under the International Emergency Economic Powers Act and such action is in effect on the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 90 days after the date of enactment of this Act.

(2) ACTIONS AFTER DATE OF ENACTMENT.—In any case in which the President takes action under the International Emergency Economic Powers Act on or after the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 90 days after the date of such action.

SEC. ___. NOTIFICATION OF CONGRESS OF TERMINATION OF INVESTIGATION BY OFFICE OF FOREIGN ASSETS CONTROL.

(a) NOTIFICATION REQUIREMENT.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

''Sec. 42. Notification of Congress of termination of investigation by Office of Foreign Assets Control.''.

''The Director of the Office of Foreign Assets Control shall notify Congress upon the termination of any investigation by the Office of Foreign Assets Control of the Department of the Treasury if any sanction is imposed by the Director of such office as a result of the investigation.''.

Mr. LAUTENBERG. Mr. President, I offer an amendment to this intelligence reform bill because I think it is consistent with the mission of that bill. There has been a lot of work and a lot of debate about the bill, and I personally am supporting it, but I offer an amendment to do something we very much intend to have happen, and that is to shut down the source of revenue for terrorist organizations.

The 9/11 Commission report talks about the critical issue of terrorist financing because as President Bush has said, money is the lifeblood of terrorist operations.

Amazingly, some of our very own corporations help provide revenue indirectly to terrorists by doing business with state sponsors of terrorism. My amendment would close the loophole in the law that allows this to happen, thereby cutting off a major source of revenue for terrorists.

As the 9/11 Commission stated:

Vigorous efforts to track terrorists' financing must remain front and center in the U.S. counterterrorism efforts.

We took pains to check with the Parliamentarian about the germaneness, the relevance of our amendment, and it was confirmed that this would be relevant.

We need to starve the terrorists at the source and that is why our sanctions program in law is so critical, but now we know a loophole in the law exists that enables companies to do business with Iran, which openly boasts about its support for Hamas and Islamic jihad.

Iran also funded the 1983 terror attack in Beirut that killed 241 U.S. Marines; 241 of our finest young people killed by Iranian terror, and yet we are permitting U.S. corporations to provide revenue flows to the Iranian Government. We have to put a stop to it as quickly as we can.

How do companies get around terrorist sanction laws? It is a fairly simple process. They simply establish a foreign subsidiary and run their Iranian operations. It is demonstrated on this chart which says that U.S. corporations have subsidiaries all over the place and that is common in our economic and business structure. Once a foreign subsidiary is created, then people can do business with Iran or other rogue nations, people who are determined to kill our citizens, can do business with them and provide services—intentionally, I do not believe—but nevertheless to people like Hamas and Hezbollah. It is a terrible thing to recognize that American companies can be providing sustenance to countries that support terrorism actively.

Our American sanctions law prohibits American companies from doing business with Iran, but the law does not mention an American company's foreign subsidiaries. As long as a loophole like this is in place, our terrorist sanction laws are considerably diminished in their force.

After brutally murdering 241 of our young marines in their sleep in Beirut in 1983, an Iranian-backed terrorist killed two American women whom we show in these photos. Look at these young faces. They are people at the dawn of life. Sara Duker was a constituent of mine, a 22-year-old from the town of Teaneck, NJ. She was a summa cum laude graduate of Barnard College. Sara was killed with her fiance when the bus she was riding in in Jerusalem in 1996 was blown up by Hamas. An American court confirmed that Iran was responsible and assets were seized to try and provide compensation to the families.

Hamas receives its funding and support from the Iranian Government and that is why this attempt to sequester assets was done.

Last year, Abigail Litle, a 14-year-old Christian missionary originally from New Hampshire, was riding home from school in Haifa, Israel, when her bus exploded as a result of a suicide bomb. That attack killed 15 people and was directly linked to terrorists funded by Syria and Iran.

I was in Iran with several other Senators and we talked to the President of the country about supporting terrorism. He denied any suggestion that they might be operating out of his country, but the Israelis last week apparently took an action to eliminate the head of one of the terrorist organizations who was clearly functioning there.

We have to worry about these countries and we cannot give them any latitude, any encouragement to continue with their killing ways. We also have to worry about providing revenue to Iran because of its well-known desire to build a nuclear bomb and other weapons of mass destruction.

The 9/11 Commission concluded:

Preventing the proliferation of [WMD] warrants a maximum effort.

Certainly, ''maximum'' includes providing funding for some of these firms. So allowing U.S. companies to provide revenue to rogue WMD programs is clearly not a maximum effort.

Some people think this is an isolated problem, but it is not. According to a report by the Center for Security Policy, there are large numbers of companies doing business with Iran and other sponsors of terror.

Iran sponsors terrorism, period. The terror they help fund has killed hundreds of Americans. Iran is seeking to develop nuclear weapons and yet U.S. companies are using a loophole in the law in order to do business with the Iranian Government. It is wrong. It is not illegal yet, but this amendment would change it. I am sure when my colleagues examine what we are talking about, they will consider joining us, I hope, enthusiastically.

It is inexcusable for American companies to engage in any business that provides revenue, any business practice that provides revenues to terrorism. We have to stop it. We have a chance to do that with this amendment. I remind our distinguished colleague, the chairperson of the committee, that she supported this amendment before and I hope she will once again support the amendment and let all of us close the terror funding loophole.

I yield the floor.

Mr. REED. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

IRAQ

Mr. REED. Mr. President, we are today, in this country, convulsed by the situation in Iraq. It is an extraordinary crisis. It is taxing our men and women in uniform, and it is certainly taxing our resolve.

I think one of the problems is that the administration has not focused on the reality on the ground, what is really happening on the ground. They are

hoping, but hope is not a substitute for planning; hope is not a substitute for a very candid and hard look at the situation on the ground. The reality is that there is widespread violence and instability throughout Iraq.

Yesterday, the New York Times reported that

over the past 30 days more than 2,300 attacks by insurgents have been directed against civilians and military targets in Iraq in a pattern that sprawls over nearly every major population center outside the Kurdish north, according to the comprehensive data compiled by a private security company with access to military intelligence reports and its own network of Iraqi informants.

You would think, given this information, that the administration would begin to reflect on the difficult circumstances on the ground, but that is not the case. They continue to pursue both policies and rhetoric which suggest that all is not well yet it is quickly getting there.

But there is something else they have done which I think is startling, and that is in a related story in the Washington Post, information such as what I just quoted, that data from private security companies is not being recognized and evaluated. It is being suppressed.

According to today's Washington Post, the

USAID said this week that it would restrict distribution of reports by Kroll Security International showing the number of daily attacks by insurgents in Iraq has increased.

On Monday, the Washington Post published a front-page story saying that the Kroll report suggests a broad and intensifying campaign of insurgent violence. A USAID official sent an e-mail to congressional aides stating: This is the last Kroll report to come in. After the Washington Post story, they shut it down in order to regroup. I will let you know when it restarts.

If we don't have accurate information, if we are not able to tell difficult truth one to another, we will never be able to effectively design a policy for Iraq.

It is concerning to me that the administration would try to respond to the facts by suppressing the facts, but that is just one example of what is going on.

I know this. The country, with some exception, is wracked by violence. The Kurds in the north have had a semi-autonomous region for many years. It is under our informal protection and formal protection. That is a part of the country where there is a certain stability, but there is political tension building there because the Kurdish sense of autonomy will invariably clash with the need to create a central government in Iraq.

The focal point of that clash could be the oil around Kirkuk, which is the second biggest source of oil for the country of Iraq. Those oil fields could be in jeopardy as a pawn, if you will, in a struggle between the Kurds asserting their autonomy and the central government trying to maintain its authority.

We also understand clearly that Sunni provinces have ''no-enter zones''—areas in which the United States cannot even send its troops today successfully. One of these areas is Ramadi.

According, again, to a story in the Los Angeles Times on September 28:

The erosion of order in Ramadi illustrates the success of the insurgents' methods and the serious problems facing the interim government and its U.S. backers in maintaining stability in Iraq. It also threatens to thwart plans for a national election in January. . . . An election that omits key population centers in the so-called Sunni Triangle region would have greatly diminished credibility.

In Fallujah, there are similar situations where there are areas we cannot enter. In the Shia South, there is the instability principally generated by Sadr, the young cleric who has defied the central government and also the U.S. repeatedly.

We generally see the violence in Iraq as a function of attacks against our troops, but when we do that we miss a very important reality; that is, this violence is only a small portion of the violence that the Iraqi people feel each day—not from terrorists but from robbers, burglars, rapists, and murderers.

In June, a poll was conducted. They asked the Iraqi people to list their top three priorities. Fighting crime represented one of the top three priorities of 92.8 percent of the people of Iraq. Stopping attacks on coalition forces represented a top priority of 17.5 percent of the people of Iraq. On a daily basis, we are seeing not just attacks against coalition forces and security forces of Iraq, we are seeing a situation in many places which is beyond chaotic to the point which the Iraqi people are quickly beginning to assume that we not only are occupying but we are inept occupiers. We cannot even provide the level of stability that they enjoyed previously. They have already decided we are occupiers. They have decided we must go.

The struggle now politically, I think, is you have to recognize that in this type of conflict it is essentially a political struggle. We can win tactical victories one after another—and we will—but unless we create a political dynamic which will coalesce support around the new Iraqi Government and coalesce cooperation with us, our efforts tactically will be marginal.

What is happening, though, politically in Iraq now is the fact that each of these groups and subgroups have one eye on the current situation, our presence there, but their other focus is on what happens when we go. Will they be in power? Will they survive? Will they succeed? That creates a dynamic that is very difficult for us and very difficult for stability in Iraq.

How did we get there?

It is in some respects a triumph, as I said before, of hope over history, of ideology, of political calculation, arrogance in some cases, ignorance that has led us to enter the country ill prepared.

There is a litany of mistakes that are quite obvious: No real plans for stabilization and reconstruction in Iraq. We should have sensed that.

I can recall in the fall of 2003 and in succeeding days and months leading up to the attack last year where we had a situation where we were trying to get information about stabilization. We didn't have that. We did not have that information.

In addition, there were insufficient forces to stabilize Iraq and we were left unprotected for weeks and months, which today has led to a proliferation of weapons in Iraq, IEDs particularly, the improvised explosive devices that are bedeviling our forces. We cannot secure those. We could not secure the borders. We need more troops.

There was a failure to secure multinational support, not only in the sense of getting the good will, good wishes, and support of the international community, but particular failures.

We were not able to convince the Turkish Government to allow the use of Turkey as a point of entry into Iraq. The Fourth Infantry Division, poised to move through Turkey, to attack in the north, to roll up and envelop all of the Iraqi forces to the north, was rerouted to the south because of that lack of cooperation. The consequence on the ground was literally thousands of Iraqi soldiers were never effectively contested. They gave up, they disappeared, and apparently reformed as insurgents. That is another example of the lack of international cooperation that could have materially assisted us.

We made a significant error in disbanding the Iraqi Army. Rather than disbanding the army, we should have marched them back to their barracks and tried at that point to see if we could, through some type of vetting of officers and senior enlisted people, or some procedure, get them to be part of the solution rather than part of the problem. They are part of the problem today. Many of these insurgent leaders, I believe, have roots going back to the army and the military force structure, the security forces of Iraq.

Then we conducted a de-Baathification program that applied across the board. We put that in the hands of Chalabi and others who had no real legitimacy in the country. As a result, for months and months and months we prevented teachers and professionals from working. It did not help in terms of getting schools going quickly. It certainly created this atmosphere among the Sunni community that they were going to effectively be marginalized as people and as citizens of Iraq. That process was a mistake.

Part of that, as I mentioned, was putting misplaced reliance on Chalabi and his colleagues. I recall he sat as a guest of the First Lady at this year's State of the Union speech, yet today is accused of cooperating and perhaps spying for the Iranians. That has been a mistake.

The CPA, Coalition Provisional Authority, turned out to be not up to the great task with which they were entrusted. The administration rejected the traditional agencies of the State Department and their divisions who have experience in stabilization operations in terms of political governments, reconstruction, economic development, and put together an ad hoc group of people who were the architects of what was a lost year of progress that we should have been making with respect to Iraq.

And, of course, there was the failure to recognize this insurgency. We all recall Secretary Rumsfeld's remarks about a few dead-enders. It was much more than a few dead-enders. It has metastasized into a virulent and effective force attacking our troops on a daily basis and attacking the citizens of Iraq.

There was a failure then simply to read the intelligence. We are debating this intelligence bill today because we have to create—indeed, it is necessary to create—an intelligence system that is more effective. Let me point to an intelligence success. This was the national intelligence estimate. According to a report in the New York Times,

> The estimate came in two classified reports prepared for President Bush in January 2003 by the National Intelligence Council, an independent group that advises the Director of Central Intelligence. The assessments predicted that an American-led invasion of Iraq would increase support for political Islam and would result in a deeply divided Iraqi society prone to violent internal conflict.

Very perceptive. It was disregarded by the administration, and I think disregarded for several reasons. They had a view, which was not substantiated by the facts, that we would be greeted with open arms. Principals in the administration said that.

As we debate this intelligence reform, we also have to understand it is not just producing good intelligence; it is having leaders who understand and use that intelligence wisely.

Then one of the most critical issues is that we have wasted a year to train Iraqi security forces. I can recall, as many of my colleagues recall, being briefed over the past many months. It seemed each briefing would contain another pie chart showing the growing, growing Iraqi security forces and the diminishing United States involvement. All of that was an illusion. These forces were untrained, ill equipped, unprepared. It took us a year to recognize that and we are only beginning now to recognize what we have to do to ensure that Iraqi security forces can, in fact, provide for the security of their country.

Part of it was a result of the notion that we could do it ourselves, that this was just a few diehards, as Secretary Rumsfeld said, that we could root them out and we could deal with them with the coalition forces. Then it was reluctance to develop an Iraqi security force because of the fear that they would become another power player in the very complicated politics of Iraq where it seems the only institutions that have any type of strength and coherence are the mosques or the militias, and they sometimes overlap. So for all these reasons, despite the evidence of growing instability, despite the proliferation of crime, we have just gotten down to begin to train an effective Iraqi security force of police, army, national guard, and special operations. That is a year wasted, a year that should not have been wasted. The signs were quite clear.

Indeed, even as we focus on this, there have been reports in the press that General Petraeus, who has been put in charge of this operation, has not yet received his full complement of American personnel to help, another example of a delayed reaction, a reaction based upon hopes that did not materialize. While those hopes were bandied about here in Washington, the situation got much worse.

All of this leads to an Iraq today that is imposing extraordinary costs on this country. One of the most obvious and poignant costs is the loss from American fighting men and women in battle: 1,054 soldiers have been killed and 7,532 soldiers wounded, who have served this country with great fidelity and great courage. Their families deserve our profound respect. We owe them, and we owe their colleagues who still fight, more wisdom and more truth.

That is why it is particularly frustrating to see this example of a reaction where, when the facts are uncomfortable, those facts are suppressed. That is not appropriate given the sacrifices we have seen.

The costs to our Army, particularly, are significant. Personnel costs. We all understand there were misgivings about the full size of the force being deployed. When General Shinseki was asked, he did not volunteer, about the size of the force needed, he said, ''something on the order of several hundred thousand soldiers,'' and was immediately castigated by Secretary Rumsfeld, saying this estimate was ''far from the mark,'' and Secretary Wolfowitz, who called the estimate ''outlandish.''

Then in his few remaining days in the Army, General Shinseki was personally shunned by the leadership and made to feel entirely uncomfortable—and I am being very polite. He did not deserve that. This is a professional soldier who was asked his honest opinion and he gave it. I wish there were more folks like him in uniform. Certainly the comments of Secretary Wolfowitz and Secretary Rumsfeld were very far off the mark. We have over 100,000 troops in place. They probably will be there for years. There is a strong sign that we need more.

This is a great stress on our military, 17 months after President Bush declared the end of major combat operations, with over 138,000 troops still stationed in Iraq. They are there because of a patchwork of different policies the Department of Defense has had to undertake because they do not have sufficient soldiers. Approximately 16,000 active-duty soldiers have already had two tours in Iraq and if they stay in the service longer, they will have another. In order to keep the strength up, they have resorted to stop-loss orders, essentially telling a soldier, once your unit has been alerted, you are there until the unit returns home, even if you can leave the service in that interim. In the words of some, it is a ''backdoor draft.''

Since September 11, DOD has announced six stop-loss policies for the Army, two for the Navy, five for the Air Force, and two for the Marine Corps. Only the Army still has a stop-loss policy in place. That is another way in which to create soldiers by means other than a strictly voluntary approach.

One of the greatest burdens falls on the Guard and Reserves. Today, we cannot continue our mission without the brave men and women of our Army and Air Force Guard and Reserve units. We are asking them to go way above and beyond the call of duty.

Since September 11, 2001, 422,950 members of the Reserve component have been mobilized; 51 percent of the Army Guard and 31 percent of the Air Guard. The average duty days have climbed as a result. Guard and Reserve men and women are now serving, on average, about 120 days a year. In fact, back in 2002, it was only 80, and before that it was much less.

We are looking at a situation which the GAO described as fraught with consequences. In their words:

> DOD policies were not developed within the context of an overall strategic framework. . . . Consequently the policies underwent numerous changes as DOD strove to meet current requirements. These policy changes created uncertainties for reserve component members concerning the likelihood of their mobilization, the length of their overseas rotations and the types of missions that they would be asked to perform. It remains to be seen how these uncertainties will affect recruiting, retention and the long term viability of the reserve components.

We have already seen the National Guard report that they have not been able to meet their recruiting objectives for the most current year. So the evidence is beginning to accumulate.

This operation tempo will mean more and more pressure on the military forces, particularly land forces, and, as a result, you will see the stress even more, in recruiting and retention, challenging our military leaders. We need more troops, I believe, as an initial response to the situation in Iraq, Afghanistan, and around the world. We should do that honestly and directly. We should not rely upon supplemental appropriations. We should not rely on emergency authorizations for additional troops. We should increase the end strength of the Army and provide for the payment of that end strength through the regular budget process, not by supplementals.

Senator HAGEL and I offered an amendment to do this last October. In March, again, Senator HAGEL, joined by Senator MCCAIN and I, introduced a bill that would increase the Army end strength by 30,000 troops. In May, we together offered an amendment to the fiscal year 2005 Defense authorization bill to increase the size of the Army by 20,000 personnel, a figure the Army says it could absorb in an efficient way in 1 year. This was accepted by the Senate, and it is now in conference with the House.

One point I should make, though, is that, once again, the administration insisted—even though they oppose the end strength—if it was to be put in the bill, it still had to be paid for by emergency funds. That is not the right way to do this. We have to make sure we have a suitably sized Army.

This is not a spike. This is not a temporary situation. Every time the President speaks, he talks about staying the course, our long-term commitment to Iraq. That is not a temporary promise, I do not think. I think that requires a permanent fix to the size of our Army and to our Marine Corps.

Now, one of the things that has happened since our debate on the floor is that the Defense Science Board, a panel of experts appointed by Secretary Rumsfeld himself, stated: ''Current and projected force structure will not sustain our current and projected global stabilization commitments.'' There are ''inadequate total numbers'' of troops and a ''lack of long term endurance.''

That is the conclusion of experts who have studied this issue, who have looked at all the things the Army is doing through modularity, through technical improvements and technological innovations to minimize the need for additional troops, and they have concluded, as a result of the study requested by the Secretary of Defense, that we need more troops.

It is not only troops. We also need equipment. The Army has sustained $2.439 billion in equipment battle losses in Iraq and Afghanistan. Presently, the Army has an unfunded requirement for $1.322 billion for munitions.

Last year, the Army spent $4 billion on equipment reconstitution—resetting it, repairing it, and getting it ready to go again.

The Marine Corps expects to need over $1 billion to reconstitute equipment next year.

The GAO reports that since September 11, the Army Guard has transferred 22,000 pieces of equipment from nondeploying units to units deployed in Iraq. What we have is a huge reshuffling going on, as units back in the United States take their equipment and give it out to units that are deploying forward. It leaves these units back in the United States without equipment. If they are called upon to perform a mission, another international mission, a homeland security mission, or a mission involving a natural disaster, where are they going to get the equipment they deployed overseas? How are they going to be affected?

In addition to the National Guard and Reserves, the Active Army is resetting itself under new battle formations, modularity, which is a concept that I think is ingenious, a concept that should be supported. But as they are doing this, they too are shuffling equipment about. There are some units that are not yet up to speed with all their equipment. They will have it, I am sure, before they are deployed overseas, but it is another example of the turmoil in terms of equipment we are seeing within the military.

In order to respond accurately, correctly, and directly to the situation in Iraq, we have to increase our Army, I believe, and make sure they have the resources to have the equipment they need to do the job.

Now, the funding for our operations in Iraq has been primarily through supplementals. In the past 17 months, President Bush has requested and Congress has appropriated $187 billion for the wars in Iraq and Afghanistan. For comparison, the budgets for the Department of Labor, the Department of Health and Human Services, the Department of Education, and the Department of Interior total $163 billion. So we have been spending in Iraq more money than we allow for discretionary spending for the Departments of Labor, Health and Human Services, Education, and Interior.

The last supplemental, for $25 billion, was passed in May 2004. At that time, the administration said they would not need the funding until January or February of next year, 2005. Yet it has been reported this week that $2 billion of this fund has already been used, showing the huge, huge pressure, the huge cost of our operations in Iraq and Afghanistan.

Last week, President Bush announced he plans to divert nearly $3.5 billion from Iraqi water, power, and other reconstruction projects to security, another indication, I think, that the security situation is in very difficult circumstances.

We have been funding these operations with supplementals. But we cannot continue to do that because there will be a point, I believe, at which the American people will be very concerned, when each year we are forced to vote on $60, $70, $80 billion of supplemental funding for Iraq and Afghanistan. We know this effort is going to take many, many years. People talk about it as a generational struggle, and I think that is right. We have to prepare for that struggle, but we cannot do it in ad hoc supplemental budgeting.

We also have seen, of course, the terrible incidents of abuse in Abu Ghraib, with too few troops in that prison to do the job, ill-trained troops in that prison to do the job, but it is not just those troops. I think it is wrong simply to single out people we know from photographs who have done despicable things. They will be punished. They are being punished. We have a responsibility to look not only at the young soldiers, but the leadership, the chain of command, the policies they adopted or did not adopt, the confusion they created and did not resolve. We have had several investigations so far. Each one goes a little bit down the road but then seems to stop.

We waited, frankly, for months for the report of General Fay and General Jones, thinking this would be the final authoritative report that would look from the level of three star and four star all the way down. It turns out that for one of the most significant issues, the issue of ghost detainees—those individuals who were not properly recorded by the authorities when they came into our custody—General Jones and Fay had no real answers because they didn't get any cooperation from the Central Intelligence Agency. Now we have another investigation presumably conducted by the IG and the Department of Defense. This is not the way to get to the core of what happened. It might be an effective way of postponing real review and investigation, but it is not the way to get the answers.

These answers are important, not simply because of individual culpability of soldiers up and down the ranks, but because we have to have a military force that understands that they are subject to the laws, that it is not optional for leaders to ignore some or modify them at will. This is the very challenging situation, but it is an example, once again, of the lack of preparedness, the lack of sufficient personnel, and the lack of clear guidance that has plagued our operations in Iraq from the beginning.

I have spent a great deal of time talking about Iraq. The interesting thing in some respects is what we are not talking about. We are not talking about North Korea. But just this week on Monday, at the United Nations, Vice Foreign Minister Choe Su Hon said North Korea had been left with ''no other option but to possess a nuclear deterrent'' because of U.S. policies that he said were designed to eliminate his country. He stated:

> We have already made clear that we have already reprocessed 8,000 wasted fuel rods and transformed them into arms.

Reprocessing 8,000 rods would extract enough plutonium for as many as eight nuclear warheads. Here is a situation where, as we focused on Iraq, we have sat by as the North Koreans blatantly and boldly opened up the cans in which IAEA sealed the rods and, according to their comments, have reprocessed this material into nuclear weapons. One of the worst possible situations, a nuclear-armed North Korea, may have evolved. We are at this point taking troops out of South Korea to fulfill our requirements in Iraq. What signal does that send to the North Koreans?

It is not a question of deterrence. We have the capability of deterring the

North Koreans from coming south. But it certainly is not aiding us in what ultimately must be our objective of disarming North Korea, hopefully through peaceful means and through negotiations, not just our efforts alone but the world community, because the great fear that we all have, that transcends the current struggle in Iraq, is that terrorists will obtain nuclear material and nuclear weapons.

Here we have a situation where over the last several months the North Koreans have finally said: We have them. Part of our lack of response is an internal debate within the administration that has been going on for months, if not years: Do you negotiate, which means some type of arrangement between the world and North Korea, or do you once again embark on a regime change operation? The difference over the last several months is the growing realization that Iraq has put so much stress on our military forces, that in the event of a need to disarm North Korea, there would be far fewer forces to draw on. So that is another huge cost of our involvement in Iraq.

Then add another development: The Iranians continue to insist they have every right to a full, complete nuclear fuel cycle. Of course, the concern—not just of the United States but the international community—is that if they achieve that cycle, they will be able to obtain material with which to construct a nuclear weapon.

Despite their protestations that that is not their objective, there is a growing suggestion, if not conclusive evidence, that certainly that possibility might exist. And once again, what are we doing? Why have we not focused attention on Iran in a more meaningful and decisive way?

One has to question a strategy that has led us into Iraq, to the instability, to the costs, to the lost opportunity, when there appear to be much more serious threats abroad.

We have an opportunity to be much more candid, much more truthful about what is going on. That is an opportunity I would hope the administration would embrace because unless we operate with the facts and unless we operate with the reality of the situation, there will be no way we can effectively plan to deal with the threats we face.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, before initiating my remarks, let me express the admiration and respect I have for the chairman of this committee, Senator COLLINS of Maine, as well as the ranking Democrat, Senator LIEBERMAN of Connecticut. What they have presented to the Senate is an extraordinary work product, if one considers the fact that we first received the 9/11 Commission report on July 22, and a mere 8 or 9 weeks later we are on the floor of the Senate considering landmark legislation. The first reaction of anyone who listens to those dates would be that they must be acting in haste.

The fact is that no sooner did Senator COLLINS and Senator LIEBERMAN receive this report than they announced they would take it extremely seriously and they would do some things unprecedented around this institution to try to move the legislation on a timely basis. It meant asking Senators to return in the month of August, a month when we are usually either back in our States or vacationing with our families, to come back and to have a series of hearings, starting with Governor Kean and Congressman Hamilton, Chair and Vice Chair of the Commission, and then a long series of many scores of witnesses who came and talked to us about aspects of this report.

They followed those hearings in August and early September with a markup last week which I attended as a member of the committee, a markup which considered 33 different amendments. Those were serious amendments, complicated amendments. Each one of them tested us to think long and hard about the 9/11 Commission report as well as the bill that is before us.

The interesting thing about the amendments that were considered is that when all was said and done—some had been adopted, some had been defeated—not a single amendment passed or was defeated on a partisan rollcall.

It wasn't Republicans versus Democrats. That is a good sign. It shows we took to this task in a bipartisan fashion and made concessions to try to find solutions.

I, frankly, do not disparage debate on the Senate floor. It is an important part of what we do. Even heated debate I find informative and sometimes entertaining. But this morning at the town meeting which I had with Senator FITZGERALD, a constituent from Illinois came up and said: Why do you argue so much? Why don't you just get together, the two political parties, and solve the problems?

I understand that sentiment. And though our arguments and debate may sound adolescent or a waste of time, they are, in fact, the noise of democracy. The debate in our committee, the Governmental Affairs Committee, which led to the adoption of some amendments and rejection of some amendments, led to a good bipartisan work product which we bring to the Senate floor today. I am proud to support it and proud to be a cosponsor.

There are two parts of it in which I take particular pride. One relates to the civil liberties board. The civil liberties board was an idea of the 9/11 Commission. They understood, as I think all of us do, that historically when the United States was concerned about security issues and safety issues, those were the moments when our Government asked for more power to protect America, usually at the expense of individual rights and liberties. It is a delicate balance and delicate negotiation between security and liberty.

Again, after 9/11, the first invasion in the continental United States since the British stormed this building in the War of 1812, after that our Government came and asked for more authority to go after the terrorists and to protect our Nation. On a bipartisan basis we gave that authority to the Government.

We understood that it was a risky decision. We were enacting the PATRIOT Act at a time of high emotion, when we were still very mindful of the tragedy of 9/11 and the thousands of innocent Americans killed, as well as their families who were grieving. We gave that authority to our Government and said we will put a time limit on some of these new powers and we will revisit them in the future to see if we have gone too far.

At every step of the way, we want to balance the security of this country and the liberty of Americans, and not to go too far in giving powers to Government at the expense of the rights and freedoms that we enjoy and which make us America. This civil liberties board, proposed by the 9/11 Commission, was consistent with that value. On a bipartisan basis, the Commission came and said, create within the executive branch a civil liberties board; this civil liberties board will be a guardian, if you will, of the basic rights of Americans. It will measure the policies and activities of our intelligence community and report regularly, on a public basis, as to whether there has been a Government effort that has gone too far.

I am not sure there is another board like this in any other part of our Government, but I applaud the 9/11 Commission for suggesting it. I certainly applaud Chairman COLLINS and Senator LIEBERMAN for incorporating the original civil liberties board in this legislation and accepting several amendments that I offered, which I think make the board even more independent and worthy of the duties that are entrusted to it.

Senator KYL of Arizona came to the floor this morning and suggested amendment No. 3801. It is an amendment to the civil liberties board section. In my estimation, it would really undermine the effectiveness of this civil liberties board.

The Senator from Arizona said Chairman COLLINS and Senator LIEBERMAN failed to make tough choices, in his words, because they were trying to win unanimous approval of the bill. It is true the bill was reported unanimously from the committee; despite reservations of some members, we all came together to report it out. I disagree with the Senator's premise that this unanimous vote was at the expense of making hard choices. Trust me, hard choices were made on almost every page of this lengthy legislation. There is nothing wrong with trying to work

together in a bipartisan fashion. I think Senator COLLINS and Senator LIEBERMAN did just that. They made some of the toughest choices.

This legislation would authorize the most significant reorganization of our intelligence community in 50 years. I believe this legislation will save lives.

In his remarks on the amendment, Senator KYL of Arizona suggested those who were concerned about our fundamental constitutional rights need to balance our concerns with concerns about the lives of American citizens. If that is the premise of his position, I don't quarrel with it. It is always a balance. If you give the Government too much authority to make us safe and take away from individuals the basic rights of our country, then what do we have left? When it is all over, those unique American values have not been protected. Rather, they have been taken by the Government. So we always want to make sure we have enough authority in the Government to protect us, but not too much. That is what this legislation does.

One of the issues we weighed heavily was how to fight the war on terrorism, while protecting basic liberties. The American people expect no less.

Let me quote from the 9/11 Commission when they addressed this issue:

> While protecting our homeland, Americans should be mindful of threats to vital personal and civil liberties. This balancing is no easy task, but we must constantly strive to keep it right.

The 9/11 Commission recommended this board and, following their recommendation, the legislation included it.

In fact, the Commission has already endorsed the board created by this bill. Commissioner Slade Gorton, a former Republican Senator from the State of Washington, and a member of the 9/11 Commission, and Richard Ben-Veniste, a Democratic appointee to the Commission, told the House Government Reform Committee:

> A civil liberties board of the kind we recommend can be found in the Collins-Lieberman bill in the Senate.

Those were the words of two commissioners. If nothing else, it is a seal of approval of what we offer on the floor today.

I am not surprised that there is some opposition to the board, as there is some opposition to other provisions in the bill. The board is a new entity, and many of us are trying to understand exactly what it would do. But I urge my colleagues to read carefully what we have achieved with this board. It is an integral part of intelligence reform. It is independent. Those who serve on the board will be nominated by the President, confirmed by the Senate, and have fixed terms.

In addition, there is a requirement for public reporting. So what the board discovers will not be kept deep in some file or on some computer in an intelligence agency, but will be reported to the public through Members of Congress and their committees.

The board will help to ensure that a powerful consolidated intelligence community does not violate privacy and civil liberties. I am afraid the Kyl amendment will upset this delicate balance. I want to speak about three problems associated with that amendment.

Number one, very wisely, Senator COLLINS and Senator LIEBERMAN included in their bill a standard of review for the civil liberties board. I think you need to give the board guidelines as they review government actions. The board is to determine, under current language, whether Government power actually materially enhances security, whether there is adequate supervision of the use of the power to ensure protection of civil liberties, and whether there are adequate guidelines and oversight to properly confine its use.

Where did we find this particular approach? We found it in the 9/11 Commission report.

Frankly, I cannot understand Senator KYL's amendment on this issue. He wants to take out the 9/11 Commission's standard of review. Should Congress not give this guidance to the board? Shouldn't the members of the civil liberties board understand their charge and responsibility? Can it be stated more simply and clearly than in the language I just read from the 9/11 Commission report? Taking away the standard of review is to leave the board with no guidance from Congress. That is an abdication of responsibility.

Secondly, the bill gives the board the authority to obtain the information they need to determine whether the Government is violating civil liberties. If somebody outside the Government refuses to provide information, the board would have the power to issue a subpoena to obtain it.

That is common sense. An investigative body doesn't have much authority in this society if it cannot, in compelling circumstances, subpoena materials it needs.

It is not unusual to give this subpoena authority to a federal commission or board. Let me name a few of the Federal agencies with similar authority: National Labor Relations Board, Equal Employment Opportunity Commission, Federal Trade Commission, and Federal Energy Regulatory Commission.

The Senator from Arizona, in speaking to his amendment this morning, suggested this subpoena authority would give the power to the board to ''haul in any agent anywhere in the world and drill him.'' I am afraid that statement is not accurate. The subpoena authority in this bill is a narrow one. It only applies to people outside the Government. So for the Senator from Arizona to argue that we are going to call in an intelligence agent before the board and drill him is to overlook the obvious: The subpoena authority in the bill only applies outside of the Government.

The obvious question is, why do you need subpoena authority outside of the Government? Here are two specific examples: First, the Abu Ghraib prison scandal. Implicated in that scandal were private contractors hired by our Government to interrogate prisoners. Information they generated might be the domain and property of these private companies. If the civil liberties board wanted to look into prisoner abuse and the companies refused to provide that information voluntarily, they would need a subpoena. That is why this subpoena power is in the bill.

In addition, if our Government engages in a cooperative agreement to obtain data from a private company to protect America from a terrorist attack, materials possessed by that private company would not be reviewable, except on a voluntary basis, by the civil liberties board, unless they had subpoena power. Senator KYL wants to take away that subpoena power. In doing that, he will tie the hands of this board when it comes to gathering the necessary information to meet its responsibility.

The other thing the Kyl amendment addresses is the section of the bill entitled ''Informing the Public,'' which requires this civil liberties board to share information about its work with the public. This is a good thing, from my point of view. It is a healthy aspect of the bill. We make provisions so that if the Board is dealing with classified information, there is no requirement to disclose it. Otherwise, we say the civil liberties board should inform the public about their work.

So if the Government has gone too far, there is a public report that could be reviewed to understand how the civil liberties board reached its conclusion.

The Kyl amendment would delete this section from the bill so that the board would not be required to inform the public about its activities. This directly contradicts the recommendations of the 9/11 Commission. As Commissioners Gordon and Ben-Veniste told the House Government Reform Committee:

> Such a board should be transparent, making regular reports to Congress and the American public.

I think sunshine is a great disinfectant, and I think the fact that this information will be made public is a further incentive for those in our Government not to abuse their power. In the name of protecting America, they should not destroy America's values and America's freedoms in a way that jeopardizes what is truly the character of this Nation.

I think the Kyl amendment, in those three instances, not only violates the spirit of the 9/11 Commission Report but directly violates language in the 9/11 Commission Report that has guided this committee in the creation of this bill.

I urge my colleagues to oppose the amendment.

In addition, Mr. President, I wish to speak for a moment to another provision in this bill that is near and dear to

me. As I mentioned earlier, when we went through the lengthy hearings on this legislation, there were many things that motivated us—this great Commission report on a bipartisan basis, the need to protect America as effectively as possible and as quickly as possible—but there was another factor.

At many of our hearings, in fact, even appearing as witnesses, were the survivors in the 9/11 families, the men and women who lost a loved one in the tragedy of 9/11. I want to take a moment and salute them. They gave of their time and their lives. They made a commitment to make certain that those they love did not die in vain. They came to this committee and asked us to do our part, and we did. I think this committee was faithful to its charge: to follow the 9/11 Commission and to come up with a reasonable change in reforming our intelligence community.

Why is reform necessary? It almost goes without saying. We found in the 9/11 Commission Report ample evidence that our intelligence community failed us before September 11. In the Senate Intelligence Committee on which I serve, we took a review of the intelligence leading up to the invasion of Iraq. As hard as it is to believe, with the millions of dollars and thousands of conscientious people involved, the intelligence gathering before the invasion of Iraq was in many respects just plain wrong.

The American people, and many Members of Congress, were convinced that we needed to invade Iraq because of charges that there were weapons of mass destruction, nuclear weapons programs, linkage with al-Qaida—things that turned out to be patently wrong. The intelligence failed us.

In one celebrated book, an author wrote that the head of the Central Intelligence Agency, in response to the President's question, Are you sure there are weapons of mass destruction in Iraq? is reported to have said: It's a slam dunk. He said with some certainty the weapons of mass destruction were there. When we arrived, they could not be found.

We understand the gravity of the threat of terrorism. Those of us who remember 9/11 and understand the seriousness of this threat want to get it right, and intelligence is truly our first line of defense. But I have to tell my colleagues that the 9/11 Commission Report kept returning to one basic and recurring theme when it came to improving intelligence and making America safe.

Let me show my colleagues what they said because I think it demonstrates in a few words why this section of the bill is so important to me and why I am glad it is part of our work effort.

The 9/11 Commission Report said:

> The biggest impediment to all-source analysis—to a greater likelihood of connecting the dots—is the human or systemic resistance to sharing information.

And that turned out to be a major obstacle.

We have a weak system for processing and using the information that we need to make America safe, and the Commission pointed that out. I have said this before on the Senate floor, and it bears repeating, that those who think our information technology was adequate to the task on 9/11 should consider the following.

The computer system at the FBI, the premier law enforcement agency in America on 9/11/2001, did not have e-mail within their system, had no access to the Internet, was unable to sort and trace by more than a one-word reference, and when they finally came up with the photographs of the 19 terrorists on September 11, the computer system of the FBI was incapable of sending a photograph over its computer system. They had to overnight the photographs to their regional offices.

That, to me, is as solid a condemnation of the computer system at the FBI as anything I read. That is a fact. And if you wonder why we failed to gather information, to process it, analyze it, and use it effectively, that is what it comes down to.

On July 10, 2001, an FBI agent in the Phoenix field office sent a memo to FBI headquarters and to two agents on the international terrorism squads in the New York field office advising of the ''possibility of a coordinated effort by Osama bin Laden'' to send students to the United States to attend civil aviation schools. The date of that memo is July 10, 2001. The agent based his theory on the ''inordinate number of individuals of investigative interest'' attending such schools in Arizona.

The agent made four recommendations to the FBI. The agent recommended that we compile a list of civil aviation schools, establish a liaison with those schools, discuss the theories about bin Laden with the intelligence community, and seek authority to obtain visa information on persons applying to flight schools. This was July 10, 2001. Those were the recommendations in the FBI memo.

The flare went off. The notice was there. Something needed to be done. His memo was forwarded to one field office. Managers of the bin Laden unit and the radical fundamentalist unit at FBI headquarters were addressees but did not even see the memo until after September 11. No managers at headquarters saw the memo before September 11. The New York field office took no action. It was not shared outside the FBI.

As its author told the 9/11 Commission, the Phoenix memo was not an alert about suicide pilots. His worry was more about a Pan Am 103 scenario in which explosives were placed on aircraft. Because it was not shared, because it was not processed, we find ourselves in situations more vulnerable.

Mr. President, let me give another illustration of why this information sharing is so important.

The 9/11 Commission Report tells us that on August 15, 2001, the Minneapolis FBI field office initiated an intelligence investigation of Zacarias Moussaoui, a name well known to us now. This man entered the country on February 23, 2001, began flight lessons at a flight school in Oklahoma City, and began flight training at Pan American flight training school in Minneapolis on August 13. Mr. Moussaoui had none of the usual qualifications for flight training on Pan Am's Boeing 747 flight simulators.

Contrary to popular belief, he did not say he was not interested in learning how to take off or land. Instead, he stood out because, with little knowledge of flying, he wanted to learn how to take off and land a Boeing 747. The FBI agent who handled the case in conjunction with the INS representative on the Minneapolis Joint Terrorism Task Force suspected Moussaoui of wanting to hijack airplanes. This is August 15, 2001.

If these respective agencies had the benefit of the Phoenix memo, brought it together with this information about Mr. Moussaoui, wheels would have started to turn and dots would have been connected. But, sadly, that information was not shared.

I can go through other illustrations about why we need to share information when it comes to ships coming into the United States using the Great Lakes, which are near and dear to me as a Senator representing the great State of Illinois, and the city of Chicago, and how we can use existing information technology to link up facts and draw good conclusions to protect America.

Sadly, what we have found, despite the passage of 3 years since 9/11, is we still have not figured out how to make critical information in our Government computers and other systems of records compatible and combat terrorism with that new information.

In a statement before the House Government Reform Committee last month, James Dempsey, executive director for the Center for Democracy and Technology, a nonprofit public interest group, validated my concern. He wrote:

> To date, however, the government still does not have a dynamic, decentralized network for sharing and analysis of information.

He goes on with a much longer statement, but to think that 3 years after 9/11, after the omissions, errors, and shortcomings which I have pointed out, we still do not have a dynamic decentralized method for sharing and analyzing information, which is one of the key elements in the 9/11 Commission Report.

A case in point I frequently cite is the chronic delays in integrating FBI and Border Patrol fingerprint databases. This problem goes back at least 6 years, where the agencies have been unable to work out the transfer of information. In March of this year, the

Justice Department's Inspector General reported it will take at least 4 more years to combine fingerprint systems. In other words, fingerprints collected at the border cannot be checked against fingerprints at the FBI in an integrated fashion so that a suspect at the border can be found to have been someone with a criminal record or a history which gives us caution and pause. How can we be any safer if that basic technology cannot be in place? Six years we failed to come up with it. The estimate is another 4 years is needed before it might happen.

The FBI fingerprint database contains about 43 million ten-finger sets of known criminals' prints; the Border Patrol's separate fingerprint system, about 6 million two-finger sets of prints. One has to ask, at some point in time, did anyone think that both agencies should collect the same number of fingerprints from each person? Today it is much different. They did not integrate their effort because they were not going to integrate their information. Not integrating that information does not make us any safer.

For well over 2 years I have urged that we do something significant and historic to address this failure of our information-sharing system. I refer back to GEN Leslie Groves, who was authorized and empowered by President Franklin Roosevelt after Pearl Harbor to start what was then known as the Manhattan Project.

General Groves understood the possibilities of an atom bomb. At that point, there had been a cursory and casual inquiry into how it might be weaponized. After Pearl Harbor, President Roosevelt said: We need to get serious. We need to develop these atom bombs. He said to General Groves: Turn to the private sector, turn to Government, turn to academia, bring them all together, and do it in a hurry. We may need this atom bomb to end this war.

That is how the Manhattan Project was born. I have argued for quite some time now that if General Groves could accomplish that historic task in 1,000 days, we can in even less time see dramatic progress in developing the information technology we need as a Nation. I am sad to remind my colleagues in the Senate, it has been over 1,000 days since September 11, and reports from agencies across the board tell us we have not done that.

The Commission offers two key recommendations for achieving this unity of effort in sharing information. First, information procedures should provide incentives for sharing to restore a better balance between security and shared knowledge. Second, the President should lead the Governmentwide effort to bring the major national security institutions into the information revolution.

This is from the 9/11 Commission Report:

He should coordinate the resolution of the legal, policy and technical issues across the agencies to create a ''trusted information network.''

We understand that without this sharing of information we cannot be safer as a nation. No agency can do this alone. They have to cooperate with one another. Throughout the eight hearings of the Governmental Affairs Committee conducted over the past 9 weeks, I have urged that we make revolutionary change in information sharing an essential element.

I will tell my colleagues what section 206 of this bill, which comprises a large portion of the bill, does. We set forth precise and prudent directives for implementing a trusted information-sharing network. The President is directed to establish this network. The network is to be an environment consisting of policies and technology designed to facilitate and promote sharing. It is modeled on the comprehensive proposal by the Markle Foundation Task Force on National Security in the Information Age, which I would like to salute as another major factor in the development of this section of the bill, as well as the 9/11 Commission Report.

The network must have certain attributes. This network of information must be a decentralized, distributed, and coordinated environment; built upon existing systems' capabilities currently in use across the Government; utilize the industry's best practices, including minimizing the centralization of data and seeking to use common tools and capabilities whenever possible. I want to dwell on this for one moment.

Some of the critics have the wrong notion that we are trying to create a massive Government database. That is not what this bill sets out to do. What it sets out to do is to share the information to solve problems, to alert America to threats to our security. It is not a massive Government database.

Employ an information access management approach that controls access to data rather than just networks; facilitate sharing of information; provide directory services for locating information; and incorporate protections for privacy and civil liberties. This is another one that is absolutely essential. We want to have this information collected, processed, analyzed, and shared every step of the way.

Through the civil liberties board and express language in this legislation, we are mindful that we do not want to compromise the liberties and freedoms of Americans unless there is an absolute need to protect our lives and our security.

Guidelines must be issued. Requirements satisfying governing the collection, sharing, and use of information have to be made known so that this will be an item that is followed very closely.

Let me say what the network is not. Describing what the network is is only half of the issue. First and foremost, the network called for in this bill is not a centralized, consolidated system or database. Furthermore, it is not a mere network; it is a capability. It does not move data from current systems. It does not require all new systems. It is a means to make information in existing legacy systems sharable to authorized users. It is not based on any one architecture or platform. It does not require one encryption standard. It does not contemplate or require broad distribution of personally identifiable information. It does not remove authorization and access control from existing processes. It is not limited to supporting just the IC. It does not require next-generation technology to implement.

I see other Members have come to the floor of the Senate to address aspect of this bill, and I have spoken for a little over 30 minutes. I want to give them a chance to express their feelings. I will return to this issue next week.

I hope colleagues on both sides of the aisle will understand that this historic bill includes in it what I consider to be some of the most important weapons and important tools for protecting America against another terrorist attack. We have to be creative, which the 9/11 Commission Report admonishes us to do, but we also have to use information in sensible, thoughtful ways to make us safer.

A large section of this bill is directed towards that information sharing. I tried to engage the Senate in this debate when we created the Department of Homeland Security, but the time was not right. Everybody nodded in agreement, but I could not get anything done on the bill. Thank goodness this bill on the future of the intelligence community is different, and thank goodness on a bipartisan basis we have come to understand and believe that if we follow the 9/11 Commission Report, with trusted information sharing, America will be safer.

I thank Chairman COLLINS and Senator LIEBERMAN for providing this section in the bill. I look forward to working with them on the passage of this important legislation.

Mr. President, I ask unanimous consent to print in the RECORD an additional illustration on information sharing.

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

ILLUSTRATION NO. 3 SHIP IN U.S. WATERS

Of course, representing Chicago and Lake Michigan, I understand the importance of port security. Take a ship entering the U.S. waters that comes down the St. Lawrence Seaway. It comes into the Great Lakes.

What happens? Four agencies of the Federal Government collect information on that ship. One agency determines whether the ship is carrying contraband. Another Federal agency checks whether the ship has paid its tariffs and fees. Another agency determines whether the ship and its crew comply with immigration law. And another agency checks for adherence to health and safety regulations. One ship, four different Federal agencies.

Much of this information will end up in separate data systems. One of those, a $1.3

billion Customs Services project known as the automated commercial environment, is an import processing system. Another, the student exchange and visitor information system, is being developed by the Bureau of Immigration and Customs Enforcement within Homeland Security. Other border protection is held on databases held by the Coast Guard and by the Department of Agriculture.

The Transportation Security Administration also will collect and hold relevant information in its systems. Consider how many different agencies are concerned about the one ship that we might fear may be bringing the wrong people with the wrong cargo to threaten the United States.

None of these information systems are designed to communicate with one another. How in the world can we assure the American people of their safety when we are ignoring the most basic requirement—that these agencies—both people and technology—work together and share information? Don't we want to make certain that the FBI and the CIA had access to that information? In addition, the NSA, DoD, Department of Defense, State Department, State and local officials, all of them could benefit by having access to that information.

Observation: The information sharing environment of the Network would facilitate full and timely information access and exchange of the disparate information housed in each of the data systems. The Network would allow information to remain where it is created, but using standards, guidelines, and rules to be developed, make it share-able and accessible to authorized Network participants.

Mr. DURBIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from Illinois for his terrific contributions to this bill. He was the individual who brought to the committee's attention the woefully deficient information systems that have hindered the war against terrorism.

I remember how shocked I was at our first hearing, when the Senator from Illinois described the FBI being unable to transmit pictures of the 9/11 terrorists to its field offices. He also told us the FBI did not have the capacity to transmit fingerprints to the Border Patrol. Those underscored, in a way that few have been able to do, the lack of an adequate, integrated communications network within the Federal Government.

We worked very closely with the Senator from Illinois on this section of the bill. It incorporates his thoughts, his language, and it is his leadership that is behind those important provisions. So I salute him for being out in front on this issue and helping us come up with provisions that I think are going to make a real difference.

I salute and thank the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, even I want to thank the Senator from Illinois, a dear friend, a great colleague. He has made a very substantial contribution to this bill.

Senator DURBIN has a quality of service in the Senate that I have noted in some of the best colleagues with whom I have had the honor to serve. He thinks about matters, focuses on a problem, comes up with a solution, and he doesn't let it go until he gets it done. He saw a real problem here which others have seen but, frankly, have not focused on or grabbed ahold of as much, which is the woeful, outrageous, infuriating inability, up until this time, of our Government to put the best information technology at the disposal of those who are working to protect us.

The terrorists have figured this out. We all know about the opportunities for cyberterrorism. If you look at the number of hits that are made on even Defense Department sites, you can see the potential. We are beginning to have a very good capacity to launch our own offensives here, but this is about something else. This is just taking information, which is a key to protecting ourselves in the age of terrorism, and moving it quickly to the places it can do the most good. Talk about connecting the dots.

Anyway, Senator DURBIN is really singlehandedly responsible for this substantial title of the bill. I thank him very much for his contribution. It is part of why this bill is going to make a real difference in protecting the security of the American people.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 3823

Ms. COLLINS. I know Senator CONRAD is waiting to have a colloquy with the managers of the bill. I do have an amendment that I think I can dispose of very quickly. I ask unanimous consent that the pending amendment be set aside. On behalf of Senator VOINOVICH, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine (Ms. COLLINS), for Mr. VOINOVICH, proposes an amendment numbered 3823.

Ms. COLLINS. 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 as follows:

(Purpose: To improve the financial disclosure process under the Ethics in Government Act of 1978)

At the appropriate place insert the following:

SEC. ___. FINANCIAL DISCLOSURE AND RECORDS.

(a) STUDY.—Not later than 180 days after the date of enactment of this Act, the Office of Government Ethics shall submit to Congress a report—

(1) evaluating the financial disclosure process for employees of the executive branch of Government; and

(2) making recommendations for improving that process.

(b) TRANSMITTAL OF RECORD RELATING TO PRESIDENTIALLY APPOINTED POSITIONS TO PRESIDENTIAL CANDIDATES.—

(1) DEFINITION.—In this section, the term ''major party'' has the meaning given that term under section 9002(6) of the Internal Revenue Code of 1986.

(2) TRANSMITTAL.—

(A) IN GENERAL.—Not later than 15 days after the date on which a major party nominates a candidate for President, the Office of Personnel Management shall transmit an electronic record to that candidate on Presidentially appointed positions.

(B) OTHER CANDIDATES.—After making transmittals under subparagraph (A), the Office of Personnel Management may transmit an electronic record on Presidentially appointed positions to any other candidate for President.

(3) CONTENT.—The record transmitted under this subsection shall provide—

(A) all positions which are appointed by the President, including the title and description of the duties of each position;

(B) the name of each person holding a position described under subparagraph (A);

(C) any vacancy in the positions described under subparagraph (A), and the period of time any such position has been vacant;

(D) the date on which an appointment made after the applicable Presidential election for any position described under subparagraph (A) is necessary to ensure effective operation of the Government; and

(E) any other information that the Office of Personnel Management determines is useful in making appointments.

(c) REDUCTION OF POSITIONS REQUIRING APPOINTMENT WITH SENATE CONFIRMATION.—

(1) DEFINITION.—In this subsection, the term ''agency'' means an Executive agency as defined under section 105 of title 5, United States Code.

(2) REDUCTION PLAN.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the head of each agency shall submit a Presidential appointment reduction plan to—

(i) the President;

(ii) the Committee on Governmental Affairs of the Senate; and

(iii) the Committee on Government Reform of the House of Representatives.

(B) CONTENT.—The plan under this paragraph shall provide for the reduction of—

(i) the number of positions within that agency that require an appointment by the President, by and with the advice and consent of the Senate; and

(ii) the number of levels of such positions within that agency.

(d) OFFICE OF GOVERNMENT ETHICS REVIEW OF CONFLICT OF INTEREST LAW.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Government Ethics, in consultation with the Attorney General of the United States, shall conduct a comprehensive review of conflict of interest laws relating to Federal employment and submit a report to—

(A) the President;

(B) the Committee on Governmental Affairs of the Senate;

(C) the Committee on the Judiciary of the Senate;

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

(E) the Committee on the Judiciary of the House of Representatives.

(2) CONTENT.—The report under this subsection shall—

(A) examine all Federal criminal conflict of interest laws relating to Federal employment, including the relevant provisions of chapter 11 of title 18, United States Code; and

(B) related civil conflict of interest laws, including regulations promulgated under

section 402 of the Ethics in Government Act of 1978 (5 U.S.C. App.).

Ms. COLLINS. Mr. President, I know the Presiding Officer has a great interest in the issue that we are about to briefly discuss. The amendment of Senator VOINOVICH would require the Office of Government Ethics to report to Congress on recommendations for streamlining the financial disclosure forms for the executive branch. In addition, the amendment would require each executive branch agency to examine the number of positions requiring Senate confirmation. It would ask the Office of Government Ethics to conduct a comprehensive review of the Government's conflict of interest laws, and it would require the Office of Personnel Management to provide Presidential candidates with a list of all appointed positions within 15 days of their party's nomination. This amendment is based on legislation that was favorably reported by the committee during the last Congress.

The 9/11 Commission recommended that the Senate should not require confirmation of appointees within the national security team below level 3 of the executive schedule. The Voinovich amendment lays the groundwork for this recommendation by requiring the executive branch to identify which positions could be eliminated from the confirmation process.

Review of that information by all Senate committees will help those of us in the Senate make a more informed and thoughtful decision on reducing specific positions that now require confirmation.

The financial disclosure requirements have been in effect for almost 25 years. Unfortunately, in some cases, they have deterred very good people from serving in the Federal Government. I hope this will lead to more effective, more efficient, and simpler requirements so it no longer will deter potential nominees from serving, or force them to go through great expense in order to comply with overly burdensome laws and regulations.

Again, this proposal is very consistent with the recommendations made by the 9/11 Commission and I urge acceptance of the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I am pleased to join the chairman of our committee in urging acceptance of this amendment. I thank Senator VOINOVICH and the occupant of the chair, the distinguished Senator from Tennessee, for their work on this issue.

This is a topic we have been talking about in the Congress for a long time. The occupant of the chair, having been vetted, considered, and confirmed for a Cabinet position in the past, knows the difficulties he and others have faced in fulfilling all those obligations, well beyond what most would deem to be reasonable.

What motivates this now is an extra dimension of concern. The September 11 Commission made it very clear that a catastrophic attack might well be more likely to occur during the transition from one administration to the other. Therefore, the Commission recommended that we should do anything we could reasonably think of that would speed up the process of filling national security positions in our Government.

Earlier today, I am pleased to say, the Senate adopted an amendment that Senator MCCAIN and I and others introduced to accomplish some of those specific recommendations of the 9/11 Commission. This amendment builds on that, goes beyond it, and makes the bill stronger by helping an incoming administration fill a wide range of its appointive positions more promptly, in some cases, doing what is just plain logical: requiring the OPM, Office of Personnel Management, to send information to Presidential candidates 15 days after they are nominated; describing positions that must be filled in the new administration. This would not only allow time to prepare it, it would create a sense of optimism and fantasy in the minds of candidates nominated as to what they would do when they were elected. The amendment also calls for reports that will help us and the President to consider ways to further improve and streamline the process of getting officials appointed and put into place.

It is a very good amendment. It builds on some substantial contributions Senator VOINOVICH made to the bill in committee. I am pleased to urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there is no further debate, without objection the amendment is agreed to.

The amendment (No. 3823) was agreed to.

Ms. COLLINS. Mr. President, I move to reconsider the vote.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CONRAD. Mr. President, I come to the floor to ask a number of questions of my colleagues who are managing the bill. I have very high regard for the chairperson, Senator COLLINS. I have worked with her on other matters and found that she is an extremely able and diligent Member. I admire the way she has handled this legislation. I have watched the process as it went through the committee. I am not on the committee but I watched as it was being televised. I thought it was a very professional process.

I also have very high regard for the Senator from Connecticut, Mr. LIEBERMAN. I am not on the relevant committees. I am not on the Intelligence Committee. I am not on the Defense Committee. I am on the Budget Committee and the Finance Committee and deal with these issues from a budget point of view and financing point of view.

With that said, I come to the floor to ask a series of questions. I want to indicate that I have with me charts that were prepared by the office of Senator LIEBERMAN to talk about what the structure currently is and what this legislation would do to change it and to raise a number of concerns that I have about that change.

First, I think we should indicate the problem we are confronting with the American intelligence community, where there is a lack of coordination and communication, which has been clearly outlined in a series of hearings and a series of reports, including the report by the 9/11 Commission, including the report by the Intelligence Committee, including the work of the very able chairman, the Senator from Maine, all that has been laid across the record very clearly.

This chart from the office of Senator LIEBERMAN shows the organization of the intelligence community as it is, with the President and the National Security Council overseeing the various agencies of Government, including the Director of Central Intelligence, the Secretary of Defense, but has within it the National Security Agency, the National Geospacial-Intelligence Agency, the National Reconnaissance Office, the Defense Intelligence Agency, and the Military Services and Combatant Commands. The large majority of the funding of the intelligence community is in the Department of Defense.

I think maybe that is too little understood by the general public. But that is fact. The large majority of the funding is not at the Central Intelligence Agency. I think people in the United States probably assume that is the case; it is not. The vast majority of the funding for intelligence operations is within the Department of Defense.

Other agencies that have a significant role, of course, are the Attorney General's office, because he oversees the FBI, and the FBI has responsibility for intelligence operations within the United States.

Then we have the Secretary of Homeland Security within which we have the Information, Analysis and Infrastructure Protection Director and the Coast Guard intelligence. The Secretary of State has the Bureau of Intelligence and Research, and the Secretary of Treasury has an intelligence branch, as does the Secretary of Energy.

The problem with this structure, which has been pointed out repeatedly, is that these are a series of stovepipes, basically leading only to the White House. There is nobody that is in overall coordination and direction of these various intelligence agencies. And the idea has been to have a national intelligence director that would have responsibility to coordinate and communicate with respect to these various agencies.

So the proposal before us is to create a national intelligence director with these other various agencies already

existing reporting to the national intelligence director, so there is someone in a position to coordinate and ultimately communicate what intelligence agencies are finding.

Let me just say that I thought that what was going to happen with the national intelligence director is that funds were going to be brought together and we would not have the continuing existence of all of these other agencies.

That is really what I want to ask the managers about. The concern that I have is if we have a failure of communication and coordination, especially between the FBI and the CIA, how does adding another entity, how does adding another player improve the chances for coordination and communication?

Let me say that I was trained in business management. My career before I came here was to manage organizations. My experience has been the more layers, the less communication, the more inefficient the communication.

When this was first outlined and I found out that the CIA is still going to exist, I must say I was taken aback. I was surprised by that. I thought the Central Intelligence Agency would become the new intelligence, with a new national intelligence director. Therefore, we wouldn't be adding another player to the mix, but we would be putting somebody in a position of authority so that we could hold them accountable.

The concern I have is instead of that, we have maintained a Central Intelligence Agency and all of the other intelligence agencies we had before, and added a national intelligence director.

The fundamental concern I have and the question I have is, Why has the committee concluded that this is the right way to proceed? Why wouldn't it be better by joining the function, reducing the number of players, reducing the number of boxes on the organizational chart, instead of adding a layer?

I would be quick to say I think you need to have a national intelligence director, somebody who is in overall coordination and control because before we did not have that.

That is really the question I came to the floor this afternoon to query the chairman and ranking member about.

I would be happy to yield so they might respond.

Mr. LIEBERMAN. Mr. President, I thank the Senator from North Dakota for his questions. I want to assure him, first, there will be no rental charges for the charts that were a joint product of Senator COLLINS's and my office.

To very briefly give the background, most immediately from the 9/11 Commission Report, when we said here repeatedly, and Lee Hamilton said during the course of our hearings during the investigation about how 9/11 happened, the Commissioners very often would say, Who is in charge? The answer more often than not was: No one. They concluded it was an organization without a head. That explained why the CIA would have information and not share it with the Immigration and Naturalization Service about people they would want to keep out of the country, or the FBI would have information and not share it with the CIA.

The result was we are athletes—a homelier analogy—that the American intelligence community is like a football team with a lot of very good players but no quarterback. So they are kind of doing their own thing; some of them sometimes seem to be in another stadium and we are not getting the benefit of the billions of dollars that we are investing.

The Commission recommended that we put someone in charge as a national intelligence director.

Right now, the President is at the top on the chart. The President can't exercise day-to-day control over the intelligence community.

Incidentally, this was the report of the 9/11 Commission. Most immediately, it was essentially the recommendation of the Joint Intelligence Committee of the Congress, and in the recent past created a national intelligence director. The Scowcroft report—though we have not seen it—everybody knows that it says there has to be a national intelligence director. In fact, these recommendations go way back to 1947 when the National Security Act was passed post-Second World War and the CIA was officially created. Here is part of the problem. This is part of what I want to answer about the question.

Part of the problem that all of these groups found was that the Director of Central Intelligence—as that position exists today, which was the same person as the Director of the Central Intelligence Agency—effectively became only the Director of the Central Intelligence Agency. That is part of why nobody was really directly overhead.

As we can see in the first chart, the director of the Central Intelligence Agency is over the CIA. The major recommendation was we have to separate those two, have a separate CIA Director, and then the national intelligence director who will be over all those stovepipes.

How will he or she break them up? Two things. First, and this goes on from Colin Powell and others, we said the existing DCI was supposed to oversee the whole intelligence operation. We gave them some power but did not get them budget power. As my friend from North Dakota said, 80 percent of the budget for intelligence goes through the Department of Defense.

In an episode that Senator COLLINS and I were struck by in the 9/11 report, Director of Central Intelligence George Tenet, in 1998, after a series of al-Qaida attacks, sends out a directive—then classified, now public—to the agencies under him and says, war has been declared against us by these terrorists: They hit the World Trade Center in 1993 with the bomb, they went after the embassies in Africa, et cetera. This is a declaration of war by us and the American intelligence community against al-Qaida, a war on terrorism. And no one responded. No one did anything because he is a general without authority.

It is the old biblical line, at the sound of the trumpet, be uncertain who will follow into battle and, unfortunately, here, one of the elements of a certain trumpet in the Washington bureaucracy is money, budget authority. So no one did anything.

When the Commission asked one of the heads of the boxes on the chart, Why didn't you respond to George Tenet, he said, We didn't think we had to; we thought that was a memo.

Separate CIA from the Director so he is not responsible only for that agency but everyone in the community, with the budget authority to enforce decisions, with transfer authority for personnel within the intelligence community and, one of the most important, form the budget. Do not let other agencies do it. Actually do the budget.

The Senator from North Dakota is one of the Senate's experts on budgeting, one who worries most about whether we are getting taxpayers their money's worth. Billions of dollars—it is a classified number, so I cannot state it—but billions go into intelligence every year.

One of my hopes, because we do not talk about it much, we talk about connecting the dot, the national intelligence director will, one, be a tough budget official; two, make sure we get our money's worth; and third, more budget authority and oversight over the constituents. And, too, maybe decide this box under me is getting more money in terms of the current threat to America than it should, but this one is not getting enough; I have to move this money around.

One more point. A critical element under the national intelligence director to help him or her connect the dots is the National Counterterrorist Center. The other centers he can create for separate problems such as nuclear proliferation or separate geographic public areas like Iran and North Korea. This is the place where he will bring together as never before all the constituent parts of the intelligence community. They will sit down. He can transfer people to those centers. He can give them assignments. Most of all, he can make sure they will pool their collection of intelligence, their analysis of intelligence and, very importantly, since they are around the table—they are talking with one another, they see the problem, they have an idea from the best intelligence, signal intelligence, imagery from the satellites we have, human intelligence from people on the ground—they will do some joint operational planning as to how to deal with the problem. How do we get bin Laden? Or if there is a terrorist cell in America, what is the best way to pool our resources to get them? We put somebody in charge and we give them real authority.

Incidentally, there will be amendments introduced, or already have been, that will come to a vote in the next 2 or 3 days aimed at cutting away at that power. I say, with all respect, probably folks worried about the Department of Defense losing some authority—Senator COLLINS and I are both on the Armed Services Committee. We have a deep commitment to the warfighters. We are confident this structure will actually give better intelligence to the warfighters.

That is my answer to your question.

Mr. CONRAD. Might I ask a followup question, because the Senator referenced these earlier reports going all the way back from 50 years ago. I fully support the concept of a national intelligence director. My concern is how we are implementing it. Did the earlier reports, including the most recent from the Intelligence Committees, from the 9/11 Commission, contemplate with the creation of a national intelligence director we would still have a Central Intelligence Agency?

Mr. LIEBERMAN. They did. Interesting question. As a matter of fact, this was a real priority for the 9/11 Commission, that we separate the CIA from the national intelligence director. The point is that the CIA is only one element of the remarkable assets we have in our intelligence community, including the so-called signal intelligence, the imagery from the satellites we have, the work coordinating domestic and foreign. Because the terrorists do not separate between domestic and foreign, now for the FBI it is made statutory under the bill creating a new directorate of intelligence, counterterrorism, working with the CIA under the national intelligence director. So the answer is yes.

In fact, my understanding of the original proposal for the National Security Act post-World War II was there be a separate national intelligence director overlooking a whole community and a separate CIA. Folks in the military community were able to blend the two and diminish—here in Congress we were worried about this—and diminish and separate the power of the DCI. We look back now, and the 9/11 Commission certainly did, and say that was part of the problem. They created the vulnerabilities and weaknesses and openings the terrorists took advantage of on September 11.

Mr. CONRAD. One additional question, if I could, on the budget authority inherent in this plan. I indicated the vast majority of resources actually go to the Department of Defense and the various intelligence operations within the Department of Defense. The Senator from Connecticut indicated it was as much as 80 percent.

In terms of management of an operation, are we going to be left with a circumstance in which 80 percent of the funding is at the Department of Defense? And if so, how do we avoid a circumstance in which the tail is wagging the dog? That is, typically one finds in organizations that initiative and power follows money. If there is at the top a relatively weak national intelligence director, with most of the functions and resources in a subordinate agency, that creates its own management challenges.

I am interested to know what the concept is with respect to budget authority. Who will have that overall authority over resources?

Mr. LIEBERMAN. I thank the Senator from North Dakota. He is absolutely right in his statement.

We heard from witness after witness in our committee's deliberations in August and into September that probably worse than the status quo—which is bad, without leadership—would be to create a national intelligence director and not give him the power to direct. This may be an old quote my friend is familiar with, but former CIA Director Jim Woolsey said: In Washington, there is a different definition of the golden rule. He who has the gold makes the rules.

We are making sure the national intelligence director has the gold, which is to say the budget authority, both to formulate the budget for this entire community of national intelligence—the so-called tactical military intelligence budget—that stays with the Department of Defense.

But while I cannot say the specific percentage, I will tell you under our proposal—again this is classified, but well over 50 percent of the budget authority will now go from the Department of Defense to the national intelligence director. So that position will have that budget authority in two ways. The first is to formulate the budget. Again, this is a very important colloquy because we are going to see some amendments that are intended to reduce the authority of the national intelligence director over budget to say he basically has to accept the budget proposals of the constituent agencies. That is not so in our bill.

The second very important point: Right now the budget for the intelligence agencies goes to the Department of Defense. Even for the CIA it goes to the Department of Defense, then to the CIA. In our proposal, the money goes to the national intelligence director and then that position parcels it out to the others.

Mr. CONRAD. Might I just conclude on that point, and then I am finished. I know there are other Senators waiting. I waited to have this opportunity because I think this is very important. These are questions I am getting.

Mr. LIEBERMAN. Sure.

Mr. CONRAD. In my position on the Budget Committee, people are asking me, how is this money going to be controlled? People are given responsibility. Do they have authority?

The final question I have with respect to the Department of Defense is, we heard the other day from the Secretary of Defense, Secretary Rumsfeld, who has a very strong management background. He expressed great concern, and I think it is a concern that absolutely deserves full consideration. His great concern, as I heard it the other day in our briefing, was that he is going to have a separation of responsibility from authority; that is, resources that are currently under his control and direction are going to move up the line to the national intelligence director. He and the warfighters have a fundamental responsibility and need for intelligence. He is concerned, with the separation of these resources—as the Senator describes, much of the budget moving from the Department of Defense level up to the national intelligence director—that he not be shortchanged and that his combatant commanders not be shortchanged of the resources they need to make tactical and strategic decisions.

This is my final question: What is the response of the leadership of the committee to his concerns?

Mr. LIEBERMAN. I thank the Senator from North Dakota.

Mr. President, I will begin, and if the Senator from Maine wants to get into this, I would welcome her doing so.

First, I would say, again, Senator COLLINS and I are members of the Armed Services Committee of the Senate. If we felt there was the remotest possibility this proposal of ours would shortchange the warfighters, we would not make it. And believe me, it does not.

A couple things to say: First, we make a distinction in this bill between the tactical military budget on one hand and the national intelligence budget on the other. The tactical military budget—intelligence officials who are working for individual services; Army, Navy, combatant commanders working on joint programs within the military for more than one service—that money all stays with the Department of Defense. But the national intelligence assets, which are used, let's say, for satellites—which are clearly used by the military but also provide information that is critically important for the Department of Homeland Security or the State Department in advising the President on critical foreign policy decisions—that is under the national intelligence director, as it should be.

The fact is, a lot of this is worked out in a consulting, consensus way. But we want to just raise that national interest here. The military will always be a priority customer of the intelligence community, but it is not the only customer. The President of the United States is the most important recipient of intelligence. The Secretary of State is very important; now the Secretary of Homeland Security.

I believe we have struck exactly a balance here in making sure the warfighter is well supported. We had very interesting testimony, which I can share with my friend, from two generals who are heads of two of the

constituent national intelligence agencies. They said to us they believe this proposal establishing a national intelligence director would be an improvement and be an improvement from the point of view of their agencies because it ended the ambiguity that exists now which they think is not good for their agencies and ultimately not good for the military.

I wonder if the Senator from Maine wants to get into this and answer some of the very good questions my friend from North Dakota has asked.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, first of all, I thank the Senator from North Dakota for the thought he has given to this issue. I know he has a great interest in management structures, in making sure we have the most efficient structure possible to serve the taxpayers. So I very much appreciate the spirit with which he has raised these questions.

I want to make three concluding points to emphasize some of the points already made by my colleague from Connecticut.

First, it was evident as we studied this issue and read the 9/11 Commission Report that the current system does not foster the kind of communication and cooperation we desperately need. It is a series of stovepipes with no one having the ability to make the final decisions, to resolve conflicts, to move resources and people where they are most needed. You cannot go to the President of the United States on everything.

I have seen that firsthand in the staffing of the Terrorist Threat Integration Center where the Director feels he needs more resources, other decisions have been made by various agency heads, and there is no one to step in and set the priorities, move the people, and direct the resources. I think our bill really changes that.

Like Senator LIEBERMAN, I was struck by Director Tenet's 12/98 memo in which he does this call to be at war and that all resources should be marshaled, and virtually nothing happened. That will change under our structure. There will be accountability under our structure because people will know who is in charge and whose call it is, and that is the national intelligence director. Our organization enhances accountability, cooperation, coordination, communication, and, most of all, results.

Second, the 9/11 Commission considered doing the kind of structure you have raised questions about. Essentially, that would be creating a department of intelligence. You would take all of these units out of the other agencies and do a brandnew department. And it felt—and I agree—that would be too disruptive, particularly at a time when we are at war; that it would be expensive, it would be complicated, it would take a long time to put into effect.

We have seen that with the Department of Homeland Security. That has been a massive undertaking. I am very proud of the leadership of Secretary Ridge and Admiral Loy, but it has not been without its growing pains. We just could not afford that kind of disruption right now.

Third would be the reaction of DOD if we took all of those entities out and put them in a new department. There was testimony of a former head of the Defense Intelligence Agency at a hearing on the House side in August. He said if you pulled those agencies, like the National Security Agency, the DIA, the NGA, the NRO—those that serve DOD and other consumers—if you pulled them out, you would see DOD re-creating within the Department new entities to replace those if you severed that link and transferred them. To quote William Odom, ''You're just going to end up with a big mess'' if you do that. That is why we came up with this structure.

Mr. CONRAD. The last reference of winding up ''with a big mess,'' whose quote is that?

Ms. COLLINS. William Odom, who is a former head of DIA. So we felt the case was very persuasive for the kind of organizational structure we came up with. That was recommended by the 9/11 Commission.

Having said that, I am sure it is not perfect. I am sure we are going to learn from it. That is why we have reports required back to Congress after a year's time and by the General Accounting Office Accountability Office in 2 year's time, because we want to make sure we get this right.

I think we have struck the right balance in the organizational structure we propose.

Mr. CONRAD. Let me conclude on this note: The thing I am most concerned about is having an entirely separate Central Intelligence Agency and an office of national intelligence director. The thing that I have a difficult time understanding is how that is not going to create its own turf battles, its own communications problems. I hope I am proved wrong by this, but it is the one thing I looked at and I was surprised by and, I must say, I wondered about.

I read the reports on the difficulties we had with the coordination between the CIA and the FBI and their turf battles and their unwillingness to share information. When we preserve the Central Intelligence Agency and create an office of national intelligence director and we still have, of course, the FBI's Office of Intelligence, I wonder whether we don't wind up with more turf battles. I know the intention is to avoid that and to appropriately create a place that will coordinate all the work of the intelligence community.

My great management concern is that we will wind up with additional turf battles. I hope that is not the case. I am glad the reviews are built in because I think that is important. I wanted to express these concerns publicly. I wanted to raise these issues and have a chance for the managers to fully respond.

I very much thank the chairman and the Senator from Connecticut.

Ms. COLLINS. I thank the Senator from North Dakota.

Mr. CONRAD. I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Maine.

Ms. COLLINS. Mr. President, I know Members are eager for us to vote on Senator LAUTENBERG's amendment, which I believe is the pending amendment. I hope to conclude the debate on that shortly and move to table his amendment. Senator STEVENS is in the Chamber and would like to lay down a couple of amendments. I will delay the debate on the Lautenberg amendment until after Senator STEVENS.

I ask unanimous consent that the pending amendment be set aside so Senator STEVENS may offer his amendment.

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

The Senator from Alaska.

AMENDMENT NO. 3839

(Purpose: To strike section 201, relating to public disclosure of intelligence funding)

Mr. STEVENS. Mr. President, I have filed a series of amendments. I would like to address the one on disclosure of intelligence funding.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself, Mr. WARNER, and Mr. INOUYE, proposes an amendment numbered 3839.

On page 115, strike line 13 and all that follows through page 116, line 23.

Mr. STEVENS. Mr. President, I direct the attention of the Senate to page 115. This is title II. It pertains to the amounts to be disclosed. It deals with amounts authorized and appropriated in each fiscal year.

My amendment follows the recommendation of the administration and, I might add, the intelligence community to think twice before we do this. It may be that we will want to do this after the NID comes into being and we all have a better knowledge of how these funds are going to be handled.

This amendment would require a further study of the disclosure of funds that are provided for intelligence programs. The basic need for this amendment rests on the testimony of the Acting Director of Central Intelligence John McLaughlin before the Governmental Affairs Committee. He said:

I would not go so far as to declassify the numbers for the individual agencies. I think that gives too much opportunity for adversaries to understand how we are moving our money from year to year from technical programs to human source collection and to other objectives.

In the administration's statement of policy, the administration is also concerned that the committee bill mandates disclosure of sensitive information about the intelligence budget. The

legislation should not compel disclosure, including to the Nation's enemies in war, of the amounts requested by the President and the amounts provided for the conduct of the Nation's intelligence activities.

I understand that the committee intends to comply with the recommendations of the 9/11 Commission with regard to this. But I think it is time we slow down a little bit and respond at least in part to some of the comments of those people who have spent their lifetimes now in our intelligence service.

I can tell you that I have not spent my whole lifetime there, but I have spent some 30 years now in terms of watching over the Defense Appropriations Committee and being part of it at least. In terms of being chairman and ranking member, it has been now 23 years. This concerns me greatly because one of the problems of the appropriators is to find ways to have an honest budget but to put the money where the enemies of this country, those who want to do us harm, do not know what our emphasis is way out into the future.

I remember when we started transitioning to electronic intelligence and how we traveled from place to place to look at these new satellites and the things they were going to do and got briefings on capacities. Those were developed over a series of years, and they got more complicated as they went along. But the money that was involved was substantial.

To have a disclosure of ''we are engaging in an entirely new effort in intelligence'' would be highly unwise.

I quote from the second page of the administration statement:

> The Administration is also concerned that the Committee bill mandates disclosure of sensitive information about the intelligence budget. The legislation should not compel disclosure, including to the Nation's enemies in war, of the amounts requested by the President, and provided by the Congress, for the conduct of the Nation's intelligence activities.

I am deeply concerned about some of the problems of how we find a way to maintain the secrets of this country with regard to what we are doing in terms of human intelligence. We are building up human intelligence at the same time as we are changing the utilization of the electronic concept of intelligence. And while I believe the time may come when we can find a way to disclose certain portions of the budget, I have a real resistance to this proposal that says:

> Congress shall disclose . . . for each fiscal year after fiscal year 2005 the aggregate amount of funds authorized to be appropriated, and the aggregate amount of funds appropriated by Congress for such fiscal year for the National Intelligence Program.

Then it directs the study of disclosure of additional information. We are certainly not opposed to the study. It is the mandate beginning in 2005. We are going to start, for the fiscal year 2006, disclosing these amounts at a time when there is great change in the intelligence community. The whole structure of the intelligence community will be changed by this bill. To start disclosing where money is going is to tell the enemies of this country where our emphasis for the future is. It is the future I am concerned about in terms of disclosure.

In the future we set up reserve accounts, and I will be talking about some of those soon. But if we set up reserve accounts, the reserves are classified as reserves because that is where they get the money for innovation and new developments. We don't have to disclose it. We don't have to tell them: Yes, we are going to build new satellites or we are going to build other devices that can listen to transmissions in the air and on the land and under sea.

We have a lot of secrets in this country. They are all related to intelligence. Let me repeat that. Every one of our secrets is related to intelligence. They are highly classified. Many of them are known only to the President and a close circle. Part of that circle includes Members of Congress who deal with the very high-level, classified programs of the intelligence services.

I urge that the Senate listen to us and listen to the administration and to those who have been involved in these activities. Again, I call to the attention of the Senate that when we returned and found there were a whole series of people who had not been heard on their viewpoints—they wanted to express their concerns—we held a hearing and listened to the intelligence people, who had great, distinguished records in the past. We listened to Secretary Kissinger and a whole series of people who wore our uniform and have been the top officers of our military. To a person, they do not believe we should move this fast on this disclosure item.

Let us have the study. We are entirely in favor of the study. But to mandate the disclosure in the bill we will prepare in 2005, I think, is much too early, in view of the changes taking place in the area of intelligence. This is where we are going to start to see if there is any reaction to those who have had experience in the area, to the President, and to those who have reviewed the whole thing. Is the Senate going to listen to these people with some experience and say, OK, let's study it, but not make the judgment first and then study it?

This disclosure in the next fiscal year is wrong, until we know what the policies of the NID are and what are going to be the policies of Congress and how we are going to handle this appropriation. It appears to me that the result of this bill will be to fractionalize the intelligence appropriation, anyway. Part of it is going to go to the Department of Defense; part will be split up into several agencies within the NID.

I think we ought to know first what we are doing before we decide what we are going to disclose so we can maintain the secrecy that is required in order to prepare for the future. This is not something to correct mistakes of the past; this is something to prevent making mistakes in the future.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I have enormous respect for the Senator from Alaska. He is an extraordinary Senator, with many years of experience. I do want to assure the Senator from Alaska that, contrary to the implication in his statement, the committee did not adopt the recommendation of the 9/11 Commission to declassify the aggregate budget totals of all the agencies that make up the national intelligence program. We did not adopt that recommendation of the 9/11 Commission because, based on our hearings and the testimony of our witnesses, we concluded that that goes too far and might well reveal information that would be helpful to those who would do us harm.

The only declassification in the Collins-Lieberman bill is the top line aggregate amount for the entire national intelligence program. It does not declassify the specific appropriations amount distributed to agencies such as the National Security Agency, or the Defense Intelligence Agency, or the CIA, even though the 9/11 Commission recommended declassification at that level.

Declassification, the top line, only that aggregate figure which has been estimated in the newspapers many, many times, I believe, will improve congressional and public oversight of the intelligence budget. It will help us with better decisionmaking on resource distribution, and it will make the structure and the management of the intelligence community more transparent.

We asked our witnesses, including the Acting Director of the CIA, John McLaughlin, his views. And he, like most of our other expert witnesses, told us that as long as the specifics of the intelligence budget remain classified, there was no harm to national security to declassify just that top line aggregate amount.

I think we struck the right balance in this regard. What we did is we included a study asking the national intelligence director to report back to us—to the Congress—on whether further declassification was appropriate. But the only step we took was that top line aggregate amount. If you don't declassify that in order to have a separate appropriation, then you end up, I fear, with the status quo—the money going through DOD accounts once again. That greatly weakens the budget authority of the national intelligence director.

Again, I have enormous respect for the Senator from Alaska. I wanted to make clear what our bill does and what it doesn't do, because I think we have reached the right decision.

Mr. STEVENS. Will the chairman yield for a question?

Ms. COLLINS. Yes.

Mr. STEVENS. I am looking at the bill. The bill says the President shall disclose to the public for each fiscal year after fiscal year 2005 the aggregate amount of funds authorized and appropriated for the national intelligence program. Then I go back to the page 6 for the definition of national intelligence programs. It says:

Refers to all national intelligence programs, projects, and activities of the elements of the intelligence community;

Includes all programs, projects, and activities (whether or not pertaining to national intelligence) of the National Intelligence Authority, the Central Intelligence Agency, the National Security Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, the Office of Intelligence of the Federal Bureau of Investigation, and the Office of Information Analysis of the Department of Homeland Security.

That involves five different bills in the appropriations process. We currently put in any one of those five bills a portion of the clandestine activities we are financing with these moneys. So what you are going to tell us is, we no longer can use any portion of those because we are going to disclose the whole amount in every one of those bills.

Listen to me. You have not lived with how we have financed the intelligence community. The money is not disclosed. It is put in parts of the budget and you don't know where it is. It rests with Senator INOUYE and me, to be honest about it, and we make sure that is what it is. Maybe four people in the House and Senate know where this is. You are telling us to disclose it, without regard to where we put that money—disclose the money that is in each account and it goes into five separate bills. I say that is wrong. Wait until the NID comes into office and have him tell us how we can disclose what should be disclosed to the public. The public should not ask us to disclose this very classified, secret information to protect the future of the country through clandestine activities and acquisitions.

I ask the question, does the Senator understand what her bill does? It will disclose the aggregate amount of funds—disclose them all, including the very, very top secret items, which probably three or four people in the White House, a few people in the CIA, or the DIA, and maybe eight people in the Congress would know.

Ms. COLLINS. Mr. President, I direct the attention of the Senator from Alaska to line 16 on page 115, which clearly says that:

The President shall disclose to the public for each fiscal year after fiscal year 2005 the aggregate amount of appropriations requested . . . for the National Intelligence Program.

It does not say that we are requiring disclosure of the appropriations for the elements that make up the national intelligence program.

Mr. STEVENS. It says:

The aggregate amount of funds authorized to be appropriated, and the aggregate amount of funds appropriated, by Congress for each fiscal year for each element of the intelligence community.

Both authorized and appropriated. That is on page 116, line 9.

Ms. COLLINS. Mr. President, I say respectfully to the Senator from Alaska that that refers to the study on whether there should be further declassification. It does not refer to the disclosure. The disclosure is only—and it is very clearly stated—of the aggregate amount of the appropriations for the national intelligence program.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, this is a very important discussion about another critical part of this bill. Obviously, the Senator from Alaska has had an extraordinary record of leadership in this and so many areas of the Senate. He knows the subject matter. He has lived with it a long time. I understand what we are proposing represents change. He is quite sincerely concerned about it from the point of view of our national security interests.

I most of all want to assure him we spent a lot of time thinking about this. We did not just go for the 9/11 Commission recommendation. The 9/11 Commission recommended that we disclose not only the bottom line of the national intelligence budget but, in fact, the budget of every single agency.

Their argument, as I am sure the Senator from Alaska knows, was that, one, the public has a right to know. Of course, we have to balance it—what we disclose to our enemies—against national security, but if the budgets of those constituent agencies were out in the public, then maybe over the years the public and more Members of Congress might have decided we were not putting enough money into human intelligence, CIA, et cetera, and that we were putting too much into signal intelligence and that we would not have had the shortfall many people think we have now.

In our committee, Senator COLLINS and I decided we were not ready to make that leap of disclosing the budgets of the 15 constituent agencies of the intelligence community because we thought there was some risk involved about signaling the movement of our resources to those who wish us ill.

Incidentally, there were some members of the Commission who felt very strongly about the disclosure of the budgets of all the agencies, including some former Members of this Chamber who really feel this was at the heart of it. We did not think so, and that is why we called for the study.

We think we have, however, achieved something for asking for the disclosure of the bottom line because at least that tells the taxpayers and all the Members of Congress how much money we are spending for intelligence.

In the course of this investigation, I asked some specific questions, obviously in closed settings, about the amount of money we are spending overall and for each individual agency. I was surprised at the answers I got. I think maybe more Members of Congress should ask those questions.

But this is what I think we do achieve by having the bottom line disclosed. We are fulfilling a responsibility to the taxpayers to let them know how much money we are spending on intelligence because it is just the bottom line, without giving any particular guidance to our enemies as to where we are putting that money.

The second point is, one result of this might be when more Members of Congress and the public see what we are spending on intelligence, which is so critical in the war on terrorism—intelligence is always critical in warfare and even more critical today because of the nature of this enemy which strikes at undefended targets, innocent civilians, and is crazy enough to blow themselves up.

So the more we can see and hear and know what they are planning, the more likely we are going to be able to stop them.

One conclusion, I say to my friend from Alaska, might be that Members of Congress and the public might conclude we are not spending enough on intelligence if they see the bottom line.

Mr. STEVENS. Will the Senator yield?

Mr. LIEBERMAN. Yes.

Mr. STEVENS. The problem is not that, from my point of view. My problem is we are going through a transition and saying for the very first year we are going to be asked to disclose the full amounts appropriated to the whole intelligence community.

My amendment strikes all of section 201, in effect. I urge, at the very least, that we strike that provision that requires disclosure in 2005. Let's have the study. I hope the NID will be able to make studies and get back to us sometime next year. But why put on us the requirement that we must collate and take all the moneys going to the intelligence community in 2006 when we are going to be working on that and, at the same time, he is making his adjustments in the whole community?

My effort is to protect the clandestine amounts, protect the amounts that are necessary for security. Why can we not at least agree to make it just the study? We all agree on the study. Maybe the Commission is right, and the Senator from Connecticut is wrong and I am wrong. Why don't we have the study and find out what the NID people think is right and then let us act on 2006?

Mr. LIEBERMAN. Mr. President, I say to my friend from Alaska, it is impossible that he and I can both be wrong.

Mr. STEVENS. We have been there before.

Mr. LIEBERMAN. We have been there before.

Listen, because of who you are and what you stand for, Senator COLLINS

and I will certainly think about this. We think we have struck a good balance in just asking for disclosure of the bottom line, no details, beginning public consideration of what we are spending on intelligence, and this study we ask for in 180 days, 6 months, and then we can make some judgments beyond that.

I yield the floor. I thank the Senator. This is an important discussion.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I believe I am a cosponsor of the amendment.

Mr. STEVENS. Yes, Mr. President, the Senator is, along with Senator INOUYE.

Mr. WARNER. This is a debate we had many years on the floor of the Senate. It has been a debate we have talked about so many times, and there has been a consistency in the voting in the Senate to recognize the wisdom not to release the budgets.

As yet, with all due respect to our managers and others, I have not heard an absolutely convincing argument to turn back at least several decades that this has been an issue of debate on this floor. What is it in the public interest or, most importantly, our national security interests that requires us at this time to reverse positions that have been taken by this Chamber, together with the other body, over the period of several decades that I have been privileged to serve here?

My concern is that this world today is so rapidly changing, and with the advancement of electronics and so many devices to determine what we in an open society are doing, why put the roadmap on the table for all to begin to search?

It has been my experience that if you put out half a loaf, it will be followed by a request to get the other half of the loaf. Were this provision to prevail, we would be back here in a very short time, some colleagues with the best of intentions, saying: Why don't you put it all out? Why should we have any of it secret? That, coupled with the fact I have in my lifetime never seen a period where there is greater uncertainty about the security of this country—because of the progression of weapons of mass destruction, because of the progression of terrorism, and the proliferation of individuals who are willing to give up their lives to do harm in this country and other parts of the world—I just do not think at this point in time, without following, I think, the sage advice of our distinguished President pro tempore, we need to reverse what this Chamber has considered and decided upon year after year that I have been here.

So I urge colleagues to support the amendment of the senior Senator from Alaska. I intend to strongly do so.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I heard the last part of the comments of the Senator from Connecticut. I suggest we put this aside and see if we can come to some conclusion.

The Senator makes a good suggestion of putting a time limit on the study and getting us to the point where we might be able to follow this suggestion by the fiscal year 2006 bill. That bill will, in all probability, move through the Congress, I would say, by the May, June, and July timeframe. With the 180 days, I am afraid the Senator may be referring to the start of the fiscal year. That bill goes through the House and Senate. These are the first bills—Defense and Homeland Security, and Intelligence. Obviously; It is going to be in the first three without any question.

So the 180 days is going to be June, and this bill will be moving through the House before that time.

We probably could catch it before they finish in terms of if there is a recommendation we need, but I would urge my colleagues to consider repealing the requirement for disclosure and say that we urge the NID to give us the earliest possible date for that disclosure, when it could be done in the national interest.

We are putting a lot of control and power in this person. Let's have him tell us when and if it should happen rather than direct it now. Make the study and leave it up to him to recommend to us, at least to what extent we should disclose, commencing in fiscal year 2006.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I want to read a few sentences from the 9/11 Commission Report on page 416 which I think are relevant. It says:

> . . . Opponents of declassification argue that America's enemies could learn about intelligence capabilities by tracking the top-line appropriations figure. Yet the top-line figure by itself provides little insight into U.S. intelligence sources and methods. . . .

Here is a point that one of the members of the Commission, again a former member of this body, made from the 9/11 Commission Report.

> The U.S. Government readily provides copious information about spending on its military forces, including military intelligence. The intelligence community should not be subject to that much disclosure. But when even aggregate categorical numbers remain hidden, it is hard to judge priorities and foster accountability.

That is in defense of disclosing the 15 individual agency budgets.

I say to the Senator from Alaska, who knows this better than I—and I am honored to serve on the authorizing Armed Services Committee—we give a fair amount of detail of the budget in terms of military programs.

Mr. STEVENS. Will the Senator yield?

Mr. LIEBERMAN. Yes.

Mr. STEVENS. Unfortunately, that is not a part of the report. That is a comment after the recommendation. It sort of demonstrates the extent of the knowledge they had about what they were dealing with in the recommendations, because that is not true. We do not disclose the amount we appropriate for defense intelligence. We disclose the amount in the budget that we support defense intelligence agencies with pay, facilities, and offices, but the amounts of their programs are not disclosed.

What I am saying to the Senator is, as we approach this, I think there is a growing desire to know how much money we are spending. The Senator may be right. Maybe people want us to spend more. I have wanted to spend more for a long time.

Mr. LIEBERMAN. I know that is true.

Mr. STEVENS. The problem is people ought to know what they are talking about before they change the system. In these budgets are both moneys for acquisition and for salaries, and somewhere in there is some money that everybody knows, in the intelligence community, where it is and what it is for.

In the Defense authorization bill there is a classified portion of that budget.

Mr. LIEBERMAN. Sure.

Mr. STEVENS. I am not even sure, other than the chairman and ranking member, if the Senator knows what is in there. I am saying so apologetically, but the system that requires secrecy in this country on some things is kept secret. This disclosure prematurely might trigger someone saying ''watch that'' in answering the question, and that would be bad because if they answer the question about what they knew was in there, that would disclose what they did not know was in there.

Mr. LIEBERMAN. A final response on this point. The Senator from Alaska says correctly if one looks at the overall budget of a given military agency, it does not tell what they are spending on different programs. So I want to assure the Senator from Alaska that under the committee's proposal, not only do we not talk about what is being spent on specific programs and specific intelligence agencies, we do not talk about what is being spent in those agencies. We talk about the one number, the conglomerate bottom line or top-line number, and I think that only gives a general idea of what we are investing in intelligence, far from any specific information about what we are investing in particular kinds of intelligence, signal, human, image, let alone specific programs.

I would not do this if I thought it would jeopardize our national security. In fact, that is why we did not call, as the Commission requested, for disclosure of individual agency budgets because we worried it might, and that is why we are asking for a report from the national intelligence director.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I will quote Acting CIA Director John McLaughlin from our September 8 hearing on this very issue. He said:

If there is a separate appropriation for the foreign intelligence program, the national intelligence program, as distinct from the current arrangement where that appropriation is buried in the larger Defense Department bill, I think it would make some sense to declassify the overall number for the foreign intelligence program.

That was typical of our witnesses.

I also note that the top line has been made public on occasion in the past. It was made public in 1997 and 1998 by the DCI.

At this point there are numerous Senators who are asking what the plan is for today and who are trying to catch planes. I ask for the regular order with respect to Lautenberg amendment No. 3802, and I ask unanimous consent that there be 2 minutes on each side prior to a motion to table the amendment. I further ask for the yeas and nays.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, it is my understanding that that would set aside the pending amendment and take up that procedure. We would come back to this amendment. Or is there another amendment in the queue by regular order?

The PRESIDING OFFICER. There is no other amendment in the queue by regular order.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HOLLINGS. Mr. President, I ask unanimous consent the pending amendment be set aside so I can call up my amendment.

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

AMENDMENT NO. 3795

Mr. HOLLINGS. I call up my amendment numbered 3795.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 3795.

Mr. HOLLINGS. 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 as follows:

(Purpose: To propose a substitute.)

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.—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.

Mr. HOLLINGS. Mr. President, I support the Hollings-Stevens amendment, numbered 3795. My amendment strikes and replaces the underlying bill with language creating a national intelligence coordinator, or NIC. Important work since September 11th of the 9/11 Commission, numerous Senate committees and others has convinced all of us that we must enact intelligence reform. I am impressed by the efforts of my friends Senators COLLINS and LIEBERMAN, and others, who have used their considerable skills to implement most of the recommendations of the 9/11 Commission. But I worry that the Senate is moving ahead with enormous restructuring, when we could address the main problem more immediately. 9/11 was clearly an intelligence failure, and we must act now to fix the most glaring problem—the lack of an intelligence coordinator.

My amendment fixes this most obvious, most severe problem with our intelligence structure by creating a national intelligence coordinator, or NIC. It will be the NIC's responsibility to sift through the work of all of our intelligence entities, both foreign, domestic and military and keep the President abreast of the intelligence community's findings in a coordinated, complete way. As it exists, the intelligence community's communications with the President cannot help but be haphazard. The President needs to have the huge volumes of intelligence information coordinated by someone he trusts, so he can make informed policy judgments. Thus, my amendment allows the President to select an intelligence coordinator as a member of the National Security Council, not subject to Senate approval. Just as President Bush has Karl Rove, whom he trusts and who coordinates the political intelligence throughout this Administration, the President needs a Karl Rove for national security intelligence.

This NIC will need sufficient staff and resources. So my amendment assigns to the NIC in his or her role as coordinator of intelligence activities, the staff and resources currently assigned to the Director of Central Intelligence, or DCI, that is now employed in the performance of his role as coordinator of the intelligence community, which he is not doing.

Many of the dozens of provisions in Collins-Lieberman would likely improve our system of intelligence. The Senate should study each of these provisions carefully, and enact the best of these provisions after such consideration. My amendment fixes the main problem in the meantime—the lack of a coordinator.

Collins-Lieberman creates a National Intelligence Director, or NID, and gives that person considerable power over budgets and personnel. The NID will control a new national counterterrorism center, and generally manage the intelligence community. The bill is problematic because the NID will wield unheard of influence over work of the intelligence entities, before that work even gets done. This is groupthink—personnel from 15 agencies work to get the Director the answers they know he wants. Personnel will neglect intelligence that takes them in directions they know the NID opposes. Reform should encourage more creativity, not less; more diversity within the intelligence community, not less. These agencies each do different things well—we need to take advantage of differentiation, not squelch it under the NID.

The national intelligence coordinator created by my amendment is unlikely to lead to this problem of Groupthink. The NIC will not control personnel and budget decisions. He will not have the power to fire people in other agencies that he disagrees with, or promote only people who share his worldview. He will not be able to manipulate policy direction of intelligence agencies and centers we may create. The NIC will coordinate, not meddle in the work itself. The 9/11 Commission decided that part of the reason the 9/11 plot was successful is the lack of creativity in our intelligence community. Stopping complicated terror plots before they happen requires flourishing intelligence diversity, and Collins-Lieberman will undermine diversity by concentrating intelligence output in one manager—the NID. We don't need a Director of Intelligence. We need a coordinator. We need to change the NID to NIC, the ''D'' to ''C''.

I would like to address concerns I have with the underlying bill related to Defense. In deciding what to do with

the Department of Defense's control over most intelligence dollars, Collins-Lieberman splits the baby. The bill transfers control over the budgets and some personnel decisions of the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office, from the Secretary of Defense to the NID without transferring control of the agencies themselves to the NID. The NID will develop and present the President with an annual budget request for these and other intelligence programs. It is unclear whether the Secretary of Defense or the NID will control the actual payroll. Under Collins-Lieberman, ''tactical'' military intelligence and the Defense Intelligence Agency will remain under the DOD. But the bill does not define ''tactical.'' Obviously, DOD will seek to define that term broadly, and the NID will seek to define it narrowly. I understand Senator FEINSTEIN may offer an amendment that would define ''tactical'' and provide some clarity, but even if that amendment is enacted, the battle will be waged over how to interpret the Feinstein definition of ''tactical.'' My friends Senators SPECTER, ROBERTS, SHELBY, DEWINE, BOND, WYDEN, BAYH and others already think the NID should have even more control over agencies currently within the DOD than the Collins-Lieberman bill would allow, but their amendment failed.

In short, there is confusion over what Collins-Lieberman transfers from the DOD to the NID and what it does not transfer. There is confusion over what ought to be placed underneath the NID, and what stays with the DOD. There is confusion over how budget, personnel and other types of authority can be bifurcated and trifurcated. This is a time for clarity, not confusion. The NID will also receive the appropriation for these and other intelligence programs, and in Collins-Lieberman the NID can transfer funds from one office to another as the Director sees fit. If the underlying bill is enacted as it is currently written, I forecast open warfare between the Secretary of Defense and the NID. Especially during a time of war, DOD will insist on funding defense/military-related intelligence work its way. This kind of turf war is bad for the country, and we should not enact intelligence that we can see is likely to pit the Secretary of Defense against the NID. If this painful transition needs to occur, we should at least consider waiting until after combat operations in Iraq have ended.

I am also concerned about some potential problems with the underlying bill's blurring of domestic and foreign intelligence. While I support the concept of fusing foreign and domestic intelligence, because that is what modern investigating and technology requires, this is a very sensitive and tricky area. Our Nation's history of domestic covert governmental operations shows the need to be careful here. Collins-Lieberman places the FBI's domestic counterterrorism activities and those of the CIA and DOD under the NID. But it does not address problems with locating domestic covert operations outside the FBI. The NID would have the power to ask the CIA or DOD to engage in such covert domestic operations. Our current governmental arrangements keep the CIA from participating in domestic intelligence activities, yet none of this would apply to the NID. Who is to say that the NID will not begin using the CIA to conduct extensive covert domestic activities? This new role for the CIA may actually be appropriate, but we have to be careful to draw rules for CIA domestic conduct that respect our Bill of Rights and other basic traditions. Using agencies other than the FBI for these domestic tasks also removes the Attorney General from its supervisory function. The Department of Justice is qualified to make difficult Bill of Rights judgments, but these other agencies may not be. These other agencies may not even be inclined to exercise restraint when they are investigating Americans. We could ruin cases against suspected domestic terrorists, because our intelligence operatives do not conduct their investigations according to constitutional requirements, and the cases get thrown out. And unless the stovepipes we hear so much about are eradicated immediately under this bill, which seems unrealistic, we may even have multiple agencies conducting duplicate investigations against American citizens, trampling all over each other and the law.

Collins-Lieberman also enacts the largest ever surveillance intelligence network, which can be data-mined by personnel in various levels of government. Senator STEVENS and others point out that we do not even have the technology to meld all this intelligence in one database. While coordinating information among agencies is laudable, it is unclear that Collins-Lieberman addresses dangerous side effects of a new network database. Collins-Lieberman directs the White House to violate privacy protections, but of the three branches, the executive branch has the least incentive to balance individual rights concerns. Congress never held any hearings to address the civil liberties problems with such a network, or with turning over to the White House power to write privacy guidelines. Administration guidelines and a civil liberties board, contained in the bill, are not as likely to strike the correct balance over privacy issues as Congressional oversight and public debate would. At the very least, we need committee hearings to consider the consequences to our civil liberties of enacting a national network database.

At this time I would like to say a few words about this underlying bill's possible impact on a couple of our intelligence agencies. Because of the bill's considerable scope, I will only raise a few of the potential problems with the bill's agency reforms. The bill hampers the FBI Director's ability to manage the FBI. The bill creates conflicting reporting requirements for the FBI's Executive Assistant Director for Intelligence, making her responsible to the FBI Director and the NID. She will support not only the FBI's counterterrorism and counterintelligence programs, under the NID, but also the FBI's criminal and cyber missions, which are not under the NID. The bill provides no clear way to separate FBI criminal investigations from its intelligence work. I would not want to be the Executive Assistant Director of Intelligence under this structure—with dueling bosses and duplicative reporting requirements. Also, will the National Security Council's role be weakened by the creation of a separate board chaired by the NID? Will the NID be allowed to deny the Secretary of State and other cabinet-level Secretaries personnel decision-making over their own subordinates? I understand Collins-Lieberman will give the NID authority over analysis. Where does this leave CIA analysts? The bill does not address what the new role for CIA analysts will be. Have these matters been worked out, or even discussed in a public forum? I have focused on several agencies I am particularly acquainted with through my experience on the Commerce, Justice, State Appropriations Subcommittee. I am sure my colleagues are raising similar problems with reforming the agencies under their Committees' jurisdictions, and I encourage them to come forward and help us understand these important issues.

Mr. President, I'd like to say a few words about policy too. This administration is extremely reticent to spend money in Afghanistan, and it was trying to funnel to Iraq funds Congress allocated for Afghanistan long before the President started the Iraq war. Collins-Lieberman empowers the NID to transfer funds and personnel directed by Congress from one agency to another. For example, this body may substantially increase U.S. assistance to Afghanistan—I understand Senators MCCAIN and LIEBERMAN have advocated just such an increase. If we add funds for Afghanistan onto this bill, the NID could scrap the funds for Afghanistan and transfer them to fund a new operation in Syria or Iran. The NID would have a responsibility to inform Congress that he had moved this money, but these funds would be moved nonetheless. It is Congress's duty to allocate such funds. Empowering the NID to override Congress's funding priorities is bound to lead the NID to undermine Congress's powers, and instead use shift funds allocated by Congress to advance the administration's agenda.

As we consider this bill under great political pressure and with the election looming, we have considerable analogous precedent to reference. Recent hasty Congressional enactments of Homeland Security legislation and the Patriot Act show the need for more

measured action. Collins-Lieberman is thrown together in a matter of weeks. Surely most of us agree that at least some of its provisions are problematic. Much of the conversation I have heard on the floor this week sounds more like campaigning than legislating. The White House identifies problems throughout Collins-Lieberman—will the House version appeal more to the White House? A hastily thrown together conference resolving differences in the House and Senate versions will not be conducive to finding and fixing these inevitable problems. My friend Senator STEVENS says, ''Do no harm''. Whatever comes back from conference will have a tremendous head of steam behind it. By acting too fast on Collins-Lieberman, the Senate may get stuck with House provisions in a conference report that are unpalatable. Once reform is enacted, fixing missteps is extremely difficult. Experiences of homeland security legislation, passed right before an election, and the Patriot Act, prove that hasty restructuring results in confusion, mistakes and paralysis.

I conclude by asking my colleagues to support my amendment. Let's act now and enact my amendment, which fixes the main problem of the lack of a coordinator, and then let's continue to act as we learn. Let's sift through the litany of approaches being advanced by my colleagues in the underlying bill, and the rival approaches being advocated by others both within this body and outside it. My amendment starts us on the right track to improving our intelligence structure, and it avoids the potential to start us on the wrong track.

I appreciate the outstanding work Senator COLLINS and Senator LIEBERMAN have done and thank them for that. They met over the break in August and worked around the clock to produce a product so we could get something done before we leave in time for the elections in November.

However, in those pressures of time, they have come out with a product that needs many more hearings, more deliberation, and more consideration. In essence, they have a national intelligence director who directs and manages. Immediately that raised the red flag for this particular Senator.

When I say ''raised the red flag for this particular Senator,'' let me tell of an experience. It was 50 years ago we had the Hoover Commission Task Force investigating the intelligence activities of this Nation. We had the McCarthy days, McCarthy charging there were Communist spies and agents within the State Department, within the Defense Department, within the executive branch, and everywhere throughout the Government. President Eisenhower appointed the Doolittle Commission and they came out with what was considered generally in the Congress as a whitewash. The White House and Congress got together and agreed efforts should be conducted to reorganize the executive branch, thus, President Hoover's commission came to be.

A task force was headed by General Mark Clark. I served as one of those members of the task force investigating the CIA, the FBI, the Army, Navy, air intelligence, Secret Service, Q clearance, atomic energy intelligence, and on down the list. We spent some 2 years. After hearings and consideration of the generally speaking minute intelligence information at that time—I say ''minute'' for the simple reason that the intelligence information now correlated by the various entities and departments and agencies is like drinking water out of a fire hydrant. You have much, much greater volume. But even then we found the need for a coordinator.

I can see Allen Dulles of the Central Intelligence Agency. Director Dulles of the CIA said, I have my hands full trying to get the work done properly of the CIA, much less as the head of intelligence activities in the Government, namely the coordinator of all intelligence, the centralizer of all intelligence. That is why it was called the Central Intelligence Agency. He said, I have too much work to do. What we need is one single intelligence coordinator to coordinate all of it—my work, the FBI, Defense Department, military.

In those days all we had was foreign intelligence and military to bother with. We did not have terrorism threats and counterterrorism within the continental limits. Now we have heaped upon the responsibilities of the intelligence community all kinds of duties that need further deliberation and estimation because, as I say, the director of the national intelligence, when they said ''direct,'' when they said ''manage,'' I said heavens above, here is a flaw of September 11 intelligence. It was directed. It was managed. Everyone knows that now after the hearings.

The Vice President had his own little cabal in that Department of Defense. They had met with the head of the Defense Advisory Council, Richard Perle, and Scooter Libby and that group. They had submitted to the country of Israel in 1996—Benjamin Netanyahu was coming in as Prime Minister, and they submitted at that time that Saddam ought to be replaced with the Hashemite rule and they wanted to democratize Iraq back in 1996.

When Netanyahu refused doing that, they came back and organized themselves into the Project for the New American Century and they have been pressing forward ever since.

So when you direct and when you manage intelligence, you have a flawed product. We need coordination. You need to take the best of the best from the CIA, from the FBI, from the National Security Agency, from the National Reconnaissance Organization, and all these other entities and coordinate into a product to give to the President.

Suppose you were President in the next 10 minutes and you heard about a terrorist threat, not only foreign but domestic. What you would want in line, you would want a Karl Rove on intelligence. Now, the President has a Karl Rove on political intelligence. Karl Rove can tell you for any section of the country what is going on in any particular State. He has pollsters. He can give a consummate judgment or alternative to the President to make a judgment. That is fine business. We have that without legislation.

We need just that in security intelligence—not only foreign, not only domestic, not only military, but all three—security intelligence coordinator.

So when I say the national intelligence director directing and managing, I am saying, here is a flaw of September 11. You know the group-think policy of the President. If you are directing and managing intelligence, what you do is go immediately and give that intelligence to the folks making the Presidential policy and you develop a group-think and a flawed product.

We do not want, necessarily, a director, certainly with all the duties that this particular director is burdened with but, rather, we want a coordinator. He should be or she should be in the National Security Council, appointed by the President, without confirmation by the Senate. You have to have your own person in there. And you have to not have him or her running over to several committees in the Senate and several committees in the House testifying about this management, this direction, this decision, this or that policy. He will have his hands full just with what the President wants.

Necessarily, we transfer those coordination responsibilities from the CIA over to this national intelligence coordinator. This is a short, two-page amendment by Senator STEVENS, Senator INOUYE, Senator COCHRAN, and myself. This was worked out this afternoon. I was trying to listen to the debate, and the more I listened, the more it impressed me that we needed much more deliberate work and consideration, and not the crunch of a national election to get all of us out of town and do something. So we are trying to respond to that edict of ''don't just stand there, do something.'' I am afraid we are going to enact the ''Alka Seltzer'' intelligence bill: I don't believe we passed the whole thing.

Look what it does. It directs and manages, but what intelligence is under the Department of Defense and what intelligence is under the national intelligence director. I searched and I found conflicts throughout the particular Collins-Lieberman measure, especially during a time of war. I can tell you, you are going to find all kinds of conflicts there. There are conflicts going on right now with the war in Iraq and the Secretary of Defense saying he is not going to stand for it. The national intelligence director has the defense intelligence budget, but then the

secretary of intelligence has the defense intelligence function and responsibility. And the Secretary of Defense does not have budget control over what he has responsibility. And then there is the ''ying'' and the ''yang'' of defense intelligence versus tactical intelligence. And I have listened to some, the distinguished Senator from California and others, on what they consider tactical intelligence.

On civil liberties, there are real grave concerns there because there is within the Federal Bureau of Investigation, that investigates crimes and protects civil liberties, a culture, a paradigm, and a discipline. The Justice Department has developed that over the years of different FBI Directors. Now, with respect to the national intelligence director, he can direct covert activity to be taken on by the FBI with none of that discipline and none of those checks and balances.

You have heard the distinguished Senator from Alaska with respect to the national intelligence director's transfer of funds, not only the reporting of funds. I can tell you now that will never happen where you can transfer funds because the Appropriations Committee has that responsibility.

I can go down the different disclosure of funds and various other things. What I want to emphasize is that I am not trying to disparage any of the wonderful work being done by our Governmental Operations Committee. They have a product out here now that we can develop and work upon and iron out the differences. But it should not be under the pressure that we are in and having passed ipso facto the Collins-Lieberman bill. You would not satisfy the problem of 9/11, and that is coordination.

You need the President's man or woman in that National Security Council, auditing, gaining, and getting. And mind you me, don't worry about getting it, now that you have a coordinator sitting there with the President. For example, that Arizona flight school information that did not get through the FBI to the coordinator, because they did not have one, is excused. That Minnesota terrorist who did not want to land the plane, all he wanted to do was fly it into a building; that came to the CIA but did not get to the White House. Known terrorists came into the country, passed the Immigration department, and the Naturalization Service. That did not get to the Director.

But mind you me, if you have a coordinator, and the information of that importance does not get through to that coordinator, the opposite is going to be true. Rather than the old days when you held within your particular department or agency your intelligence and your information, and you did not tell the FBI, and the FBI did not tell the CIA, here you are going to try to regurgitate and spit up and throw out and report to that coordinator. Because if he does not get it at the White House level, heads are going to roll.

So we have changed the culture and discipline by having one coordinator. That is all you need. We can go home and know that the job is done. The FBI is working. The CIA is working. The National Security Agency now knows not to wait until tomorrow to translate their go signal. As they went into the World Trade Towers, they were a day late in translating documents.

We can go home and know that the President is equipped with a coordinator. And immediately, if I am running the CIA or FBI, I am going to start getting my information out rather than hiding it. That is the real difficulty: The dots were there, but the dots were not joined. With the Collins-Lieberman bill what you are instituting and legislating into law is the flaw of 9/11. You have a director of intelligence. You have a manager of intelligence. And that is how they got into the World Trade towers and into the Pentagon. It was managed.

I can see the President on October 7, 2002, in Cincinnati. ''Facing clear evidence of peril, we cannot wait until the smoking gun is a mushroom cloud,'' he said. Seven days later I voted for the authority to go to the war when the President asked—I did not sit on the Intelligence Committee. When my Commander in Chief says: ''Facing clear evidence of peril, we cannot wait until the smoking gun is a mushroom cloud,'' I voted aye. Then I found out there weren't no smoking guns, there were no mushroom clouds, there were no facilities, there were no weapons, there were no terrorist threats. But that is another argument.

I am trying to get something done where we in good conscience can protect our national security, protect us against domestic terrorism. And we can fix this bill.

Now, let me add one little thing. I don't know whether Senator STEVENS, my dear colleague, or Senator INOUYE or Senator COCHRAN wants to talk. But I would agree, I don't need, unless I am questioned, another 10 minutes. And I know they have amendments of their own. So I would agree to a time limit on either side if the distinguished managers of the bill are trying to get to a vote.

Ms. COLLINS. How much more time does the Senator from South Carolina believe he would require?

Mr. HOLLINGS. Let me reserve 10 minutes. I don't know if I will use it.

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senator from South Carolina be accorded up to 10 minutes more for his debate, and then that Senator LIEBERMAN and I have up to 10 minutes for us to use in opposition to the Hollings amendment. Then it is my intention to move to table.

The PRESIDING OFFICER (Mr. SMITH). Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I will use just 1 minute for the Hollings-Stevens-Inouye-Cochran amendment. It is my policy, and it is not to be treated casually. It is to be treated seriously because what we are going through is this exercise here. And if you had the Collins-Lieberman bill up, I would vote to get it to the House and let them try to hammer it out. They don't have the coordinator.

I was just about to say, the reason they didn't have that coordinator is that the 9/11 Commission is even Stephen, Republican-Democrat. And they wanted to have a unanimous report, and I agree with that. So they didn't hammer and zero in or bull's-eye the real need and the real fault of 9/11. They didn't join the dots. They didn't have a coordinator. And if they were going to come out on that unanimously, they would have found fault at the White House level. It is just as simple as that.

I know another time in the history of this Government where we knew full well that President Reagan knew about the Contras, at least I was convinced so. But you couldn't report it. You couldn't say it. You couldn't do it for the simple reason that these so-called commissions that are now sanctified are really politically balanced, and they leave out the necessary one. In this particular instance, we need a coordinator. You can get all of the directors. You can get all of the budgets. You can get all hammered out about the Defense Department. Just leave it all alone or put it all through. And you haven't satisfied and gotten a coordinator at the National Security Council.

We had that amendment early on last year, and the vote was 49 to 48. We put him on. I had that amendment up. It was a partisan vote.

Now I have worked yesterday and today to explain it to colleagues on the other side of the aisle, and it is bipartisan by the most responsible of Senators other than myself. I hope we don't treat it casually as something to be tabled and walk away and say: Let's have another amendment. We don't want to vote on Friday. Let's get some votes.

We are all thinking about procedure and not thinking about the country. We are all thinking about the campaign and not the country.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, the amendment offered by the Senator from South Carolina eviscerates the underlying bill. I want to be very clear about that. His amendment takes a radically different approach to intelligence reform. The Hollings amendment creates a national intelligence coordinator and transfers to this individual the responsibility and authority that the Director of Central Intelligence now has as head of the intelligence community. The DCI would remain as head of the CIA and principal adviser to the President.

This approach is completely contrary to the recommendations of the 9/11

Commission. It is completely contrary to the report of the congressional joint inquiry. It is completely contrary to numerous government and private sector reports over the past five decades.

The Hollings amendment gives the national intelligence coordinator the responsibility to manage the intelligence community but does not give that individual any additional authority to allow him to accomplish that task. The Hollings amendment also provides that 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. It is difficult to imagine why we would establish such a position with a list of legally defined responsibilities and authorities currently in the National Security Act of 1947, very important responsibilities and authorities which affected the security and the liberty of the American people, and then specifically provide that this individual is not accountable to Congress.

I am strongly opposed to this amendment. It guts the entire Collins-Lieberman bill. I urge my colleagues to defeat it.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to oppose the Hollings amendment. The Senator from South Carolina raised a question: Who cares about the country? Who is putting the country's interests and security first?

I assure him that Senator COLLINS and I, the members of our committee from both parties, care about the country, care about the security of the country, worry about the imminence of a terrorist attack, read the reports, came in in July and August and September, worked real hard to produce this proposal.

Talk about treating something casually, the amendment of the Senator from South Carolina would casually eliminate all our work and that of the 9/11 Commission and a series of commissions going back to 1947, when the National Security Act was adopted, recommending a strong national intelligence director.

What you are doing is creating a position that is cosmetic, that has no teeth to it, and will not be able to do what we need to do. It will bring us back to where we were before September 11, with no one in charge and, even worse, the appearance of someone in charge.

Witness after witness—people no one would treat casually, Secretaries of State, heads of the intelligence community, the past three or four of those people said: The worst thing you can do is to create a position and not give that position the authority to direct the intelligence community.

With all respect, that is what the amendment of the Senator from South Carolina is doing.

Secretary Powell said to us on September 13 of this year at a hearing:

> A [Director of Central Intelligence] was there before, but the DCI did not have that kind of authority. And in this town, it's budget authority that counts. Can you move the money? Can you set standards for people? The [national intelligence director]—

The one created in our bill—

> will have all of that, and so I think this is a far more powerful player. And that will help the State Department.

Stansfield Turner, CIA Director under President Carter, told us on August 16:

> I think it's empowering somebody to run a $40 billion a year . . . operation. And we just don't have that. And we need to have a CEO. So the real issue is just how much authority to give that CEO and still protect the Department of Defense. And I, as a military officer, would err on the side of giving it to the national intelligence director.

That is what we do.

With all respect, not casually, we have built in a lot of time and effort that this committee put in over a period of time on a totally bipartisan basis. This amendment would take us back to where we were when we were struck on September 11, 2001. I don't want to go back there, and that is why I oppose this amendment.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Well, two points quickly: I don't go back to 1947, but I go back to 1953 and 1954 under the Hoover Commission. And I would refer you to that report. They ask for a national intelligence coordinator. Allen Dulles would say—he was directing Central Intelligence—you can run the National Security Agency, you over at the Department of Defense, and you can direct and manage military intelligence and these different departments. But take those cold turkey facts of intelligence and information and have them coordinated—not superduper $40 billion. It sounds pretty on paper, but I can tell you right now, that is what was wrong with 9/11. The intelligence was directed, was managed.

Why do you think the head of the CIA hammered and slammed his fist on the desk of the President and said, Slam dunk, Mr. President, we got all the information you need on weapons of mass destruction, when he didn't even have an agent in downtown Baghdad. We were about to invade Iraq, and we had not an agent. That was the same director who was the staff director before Gulf Storm and Senator Bill Cohen and I came back to be briefed on Iraq and Baghdad, against Saddam. And George Tenet, the staff director at that time, said: Gentlemen, we don't have an agent in Baghdad. We don't have one in Iraq. We will have to call over to the Defense Department. Here, 11 years later, we still don't have somebody down there. Now we have operative agents and everything else trying to manage elections and what have you. So the idea is to coordinate impartial, objective intelligence facts, not manage intelligence.

Secondly, the Congress stays out of it, Senator COLLINS, most respectfully. The Congress stays out of the affairs of Condoleezza Rice. She is the National Security Adviser. We don't call her up willy-nilly before 15 different committees here on the Hill and say testify here and there. You don't want that. If you are the President, you want it coordinated subject to you. That is what you need. You don't call Karl Rove up here and ask him about political intelligence; you have him working around the clock. He has us Democrats on the run.

I want the same kind of job done in domestic intelligence, foreign intelligence, and military intelligence. I want it coordinated for the President so the buck doesn't stop here because the dots were not joined. Now we are about to join the dots in this amendment. Of all people, they say let's don't join them, let's just manage; and we have $40 billion or $30 billion, whatever it is, and we are going to manage indirectly and we are going to screw up the Defense Department, the FBI, civil rights, and everything else, in the head-on rush we have here this afternoon.

I yield back the remainder of my time.

Ms. COLLINS. Mr. President, I move to table the Hollings amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. KYL), and the Senator from Arizona (Mr. MCCAIN) are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Georgia (Mr. MILLER), and the Senator from Florida (Mr. NELSON), are necessarily absent.

The PRESIDING OFFICER (Mr. CHAFEE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 82, nays 7, as follows:

[Rollcall Vote No. 193 Leg.]

YEAS—82

Alexander	Chambliss	Durbin
Allard	Clinton	Ensign
Allen	Coleman	Enzi
Baucus	Collins	Feingold
Bayh	Conrad	Feinstein
Bennett	Cornyn	Fitzgerald
Bingaman	Corzine	Frist
Bond	Craig	Graham (SC)
Breaux	Crapo	Grassley
Brownback	Daschle	Gregg
Bunning	Dayton	Hagel
Campbell	DeWine	Harkin
Cantwell	Dodd	Hatch
Carper	Dole	Hutchison
Chafee	Dorgan	Inhofe

Jeffords	Mikulski	Shelby
Johnson	Murkowski	Smith
Kennedy	Murray	Snowe
Kohl	Nelson (NE)	Specter
Landrieu	Nickles	Stabenow
Lautenberg	Pryor	Sununu
Leahy	Reed	Talent
Levin	Reid	Thomas
Lieberman	Roberts	Voinovich
Lincoln	Rockefeller	Warner
Lott	Santorum	Wyden
Lugar	Sarbanes	
McConnell	Schumer	

NAYS—7

Burns	Hollings	Stevens
Byrd	Inouye	
Cochran	Sessions	

NOT VOTING—11

Akaka	Edwards	McCain
Biden	Graham (FL)	Miller
Boxer	Kerry	Nelson (FL)
Domenici	Kyl	

The motion was agreed to.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Maine.

AMENDMENT NO. 3802

Ms. COLLINS. Mr. President, I move to table the Lautenberg amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. KYL), the Senator from Arizona (Mr. MCCAIN) and the Senator from Kansas (Mr. BROWNBACK) are necessarily absent.

I further announce that if present and voting the Senator from Kansas (Mr. BROWNBACK) would vote ''yea.''

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from Illinois (Mr. DURBIN), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY) and the Senator from Florida (Mr. NELSON) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 41, as follows:

[Rollcall Vote No. 194 Leg.]

YEAS—47

Alexander	DeWine	McConnell
Allard	Dole	Miller
Allen	Ensign	Murkowski
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Bunning	Frist	Santorum
Burns	Graham (SC)	Sessions
Campbell	Grassley	Shelby
Chafee	Gregg	Smith
Chambliss	Hagel	Stevens
Cochran	Hatch	Sununu
Coleman	Hutchison	Talent
Collins	Inhofe	Thomas
Cornyn	Lieberman	Voinovich
Craig	Lott	Warner
Crapo	Lugar	

NAYS—41

Baucus	Feingold	Mikulski
Bayh	Feinstein	Murray
Bingaman	Harkin	Nelson (NE)
Breaux	Hollings	Pryor
Byrd	Inouye	Reed
Cantwell	Jeffords	Reid
Carper	Johnson	Rockefeller
Clinton	Kennedy	Sarbanes
Conrad	Kohl	Schumer
Corzine	Landrieu	Snowe
Daschle	Lautenberg	Specter
Dayton	Leahy	Stabenow
Dodd	Levin	Wyden
Dorgan	Lincoln	

NOT VOTING—12

Akaka	Domenici	Kerry
Biden	Durbin	Kyl
Boxer	Edwards	McCain
Brownback	Graham (FL)	Nelson (FL)

The motion was agreed to.

Ms. COLLINS. I move to reconsider the vote.

Mr. SANTORUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 3819

Mr. ENSIGN. Mr. President, I ask unanimous consent to lay the pending business aside and call up amendment No. 3819.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN], for himself, Mr. KYL, Mr. CHAMBLISS, Mr. CORNYN, Mr. GRASSLEY, and Mr. SESSIONS, proposes an amendment numbered 3819.

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

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

The amendment is as follows:

(Purpose: To require the Secretary of State to increase the number of consular officers, clarify the responsibilities and functions of consular officers, and require the Secretary of Homeland Security to increase the number of border patrol agents and customs enforcement investigators)

At the end, add the following:

TITLE IV—OTHER MATTERS

SEC. 401. RESPONSIBILITIES AND FUNCTIONS OF CONSULAR OFFICERS.

(a) INCREASED NUMBER OF CONSULAR OFFICERS.—The Secretary of State, in each of fiscal years 2006 through 2009, may increase by 150 the number of positions for consular officers above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) LIMITATION ON USE OF FOREIGN NATIONALS FOR VISA SCREENING.—

(1) IMMIGRANT VISAS.—Subsection (b) of section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following: ''All immigrant visa applications shall be reviewed and adjudicated by a consular officer.''.

(2) NONIMMIGRANT VISAS.—Subsection (d) of such section is amended by adding at the end the following: ''All nonimmigrant visa applications shall be reviewed and adjudicated by a consular officer.''.

(c) TRAINING FOR CONSULAR OFFICERS IN DETECTION OF FRAUDULENT DOCUMENTS.—Section 305(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1734(a)) is amended by adding at the end the following: ''As part of the consular training provided to such officers by the Secretary of State, such officers shall also receive training in detecting fraudulent documents and general document forensics and shall be required as part of such training to work with immigration officers conducting inspections of applicants for admission into the United States at ports of entry.''.

(d) ASSIGNMENT OF ANTI-FRAUD SPECIALISTS.—

(1) SURVEY REGARDING DOCUMENT FRAUD.—The Secretary of State, in coordination with the Secretary of Homeland Security, shall conduct a survey of each diplomatic and consular post at which visas are issued to assess the extent to which fraudulent documents are presented by visa applicants to consular officers at such posts.

(2) PLACEMENT OF SPECIALIST.—Not later than July 31, 2005, the Secretary of State shall, in coordination with the Secretary of Homeland Security, identify 100 of such posts that experience the greatest frequency of presentation of fraudulent documents by visa applicants. The Secretary of State shall place in each such post at least one full-time anti-fraud specialist employed by the Department of State to assist the consular officers at each such post in the detection of such fraud.

SEC. 402. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

The Secretary of Homeland Security, in each of fiscal years 2006 through 2010, shall increase by not less than 2,000 the number of positions for full-time active duty border patrol agents within the Department of Homeland Security above the number of such positions for which funds were allotted for the preceding fiscal year.

SEC. 403. INCREASE IN FULL-TIME IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.

The Secretary of Homeland Security, in each of fiscal years 2006 through 2010, shall increase by not less than 800 the number of positions for full-time active duty investigators within the Department of Homeland Security investigating violations of immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) above the number of such positions for which funds were allotted for the preceding fiscal year. At least half of these additional investigators shall be designated to investigate potential violations of section 274A of the Immigration and Nationality Act (8 U.S.C 25 1324a). Each State shall be allotted at least 3 of these additional investigators.

Mr. ENSIGN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENT NO. 3815

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the pending amendment be laid aside and call up amendment No. 3815, which is at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER], for himself, Mrs. HUTCHISON, Mr. ROBERTS, and Ms. MIKULSKI, proposes an amendment numbered 3815.

The amendment is as follows:

(Purpose: To improve and provide for the review of intelligence estimate and products)

On page 17, between lines 19 and 20, insert the following:

(11) direct an element or elements of the intelligence community to conduct competitive analysis of analytic products, particularly products having national importance;

(12) implement policies and procedures to encourage sound analytic methods and tradecraft throughout the elements of the intelligence community and to ensure that the elements of the intelligence community regularly conduct competitive analysis of analytic products, whether such products are produced by or disseminated to such elements;

On page 17, line 20, strike ''(11)'' and insert ''(13)''.

On page 17, line 22, strike ''(12)'' and insert ''(14)''.

On page 18, line 1, strike ''(13)'' and insert ''(15)''.

On page 18, line 4, strike ''(14)'' and insert ''(16)''.

On page 18, line 7, strike ''(15)'' and insert ''(17)''.

On page 18, line 14, strike ''(16)'' and insert ''(18)''.

On page 18, line 17, strike ''(17)'' and insert ''(19)''.

On page 18, line 20, strike ''(18)'' and insert ''(20)''.

On page 19, line 5, strike ''(19)'' and insert ''(21)''.

On page 19, line 7, strike ''(20)'' and insert ''(22)''.

On page 31, line 1, strike ''112(a)(16)'' and insert ''112(a)(18)''.

On page 49, line 13, insert '', and each other National Intelligence Council product'' after ''paragraph (1)''.

On page 49, line 15, insert ''or product'' after ''estimate''.

On page 49, line 17, insert ''or product'' after ''estimate''.

On page 49, line 19, insert ''or product'' after ''estimate''.

On page 49, line 22, strike ''such estimate and such estimate'' and insert ''such estimate or product and such estimate or product, as the case may be''.

On page 49, line 24, insert ''or product'' after ''estimate''.

On page 51, between lines 5 and 6, insert the following:

(i) NATIONAL INTELLIGENCE COUNCIL PRODUCT.—For purposes of this section, the term ''National Intelligence Council product'' includes a National Intelligence Estimate and any other intelligence community assessment that sets forth the judgment of the intelligence community as a whole on a matter covered by such product.

On page 56, line 20, strike ''(15) and (16)'' and insert ''(17) and (18)''.

On page 87, line 16, strike ''and'' at the end.

On page 87, between lines 16 and 17, insert the following:

(D) conduct, or recomend to the National Intelligence Director to direct an element or elements of the intelligence community to conduct, competitive analyses of intelligence products relating to suspected terrorists, their organizations, and their capabilities, plans, and intentions, particularly products having national importance;

(E) implement policies and procedures to encourage coordination by all elements of the intelligence community that conduct analysis of intelligence regarding terrorism of all Directorate products of national importance and, as appropriate, other products, before their final dissemination; and

On page 87, line 17, strike ''(D)'' and insert ''(F)''.

On page 96, line 16, strike ''foreign''.

On page 100, between lines 3 and 4, insert the following:

SEC. 145. OFFICE OF ALTERNATIVE ANALYSIS.

(a) OFFICE OF ALTERNATIVE ANALYSIS.—There is within the National Intelligence Authority an Office of Alternative Analysis.

(b) HEAD OF OFFICE.—The National Intelligence Director shall appoint the head of the Office of Alternative Analysis.

(c) INDEPENDENCE OF OFFICE.—The National Intelligence Director shall take appropriate actions to ensure the independence of the Office of Alternative Analysis in its activities under this section.

(d) FUNCTION OF OFFICE.—(1) The Office of Alternative Analysis shall subject each National Intelligence Estimate (NIE), before the completion of such estimate, to a thorough examination of all facts, assumptions, analytic methods, and judgments utilized in or underlying any analysis, estimation, plan, evaluation, or recommendation contained in such estimate.

(2)(A) The Office may also subject any other intelligence estimate, brief, survey, assessment, or report designated by the National Intelligence Director to a thorough examination as described in paragraph (1).

(B) Not later than 180 days after the date of the enactment of this Act, the Director shall submit to the congressional intelligence committees a report on the estimates, briefs, surveys, assessments or reports, if any, designated by the Director under subparagraph (A).

(3)(A) The purpose of an evaluation of an estimate or document under this subsection shall be to provide an independent analysis of any underlying facts, assumptions, and recommendations contained in such estimate or document and to present alternative conclusions, if any, arising from such facts or assumptions or with respect to such recommendations.

(B) In order to meet the purpose set forth in subparagraph (A), the Office shall, unless otherwise directed by the President, have access to all analytic products, field reports, and raw intelligence of any element of the intelligence community and such other reports and information as the Director considers appropriate.

(4) The evaluation of an estimate or document under this subsection shall be known as a ''OAA analysis'' of such estimate or document.

(5) Each estimate or document covered by an evaluation under this subsection shall include an appendix that contains the findings and conclusions of the Office with respect to the estimate or document, as the case may be, based upon the evaluation of the estimate or document, as the case may be, by the Office under this subsection.

(6) The results of each evaluation of an estimate or document under this subsection shall be submitted to the congressional intelligence committees.

On page 194, line 9, strike ''112(a)(11)'' and insert ''112(a)(14)''.

On page 195, line 16, strike ''112(a)(11)'' and insert ''112(a)(14)''.

On page 195, line 23, strike ''112(a)(11)'' and insert ''112(a)(14)''.

On page 196, line 7, strike ''112(a)(11)'' and insert ''112(a)(14)''.

Mr. ROCKEFELLER. Mr. President, I rise to offer, along with Senator HUTCHISON, and also Senator ROBERTS and Senator MIKULSKI, this amendment. I will explain it in further detail. But the main objective of our amendment is to institutionalize much needed reform, based upon our recent experience, which is, namely, the practice of alternative analysis, or, as we say, ''red teaming,'' in the production of significant intelligence assessments.

As to this Rockefeller-Hutchison amendment, I am very pleased to say I believe the distinguished chair and ranking member of the Committee on Governmental Affairs have indicated their support for this amendment—that is my hope—and that, therefore, the amendment will be accepted by them and supported, obviously, by our colleagues without the need for a vote.

Section 123 of the Collins-Lieberman bill provides for placement of the National Intelligence Council within the office of the national intelligence director. The Council is currently under the Director of Central Intelligence.

As the Senate Intelligence Committee report on prewar intelligence on Iraq explains, National Intelligence Estimates are the intelligence community's most authoritative written judgments—they are the golden standard—on national security issues.

The Collins-Lieberman bill reforms the work of the National Intelligence Council, based in significant part on the findings of the Intelligence Committee's Iraq review.

Importantly, it requires the National Intelligence Estimates to distinguish between the intelligence underlying estimates and the judgments of analysts about the intelligence itself. The bill also requires that the estimates describe the quality and reliability of the intelligence underlying the analytical judgments, present and explain alternative conclusions, and characterize any uncertainties. Our amendment builds upon this important reform in two ways.

First, our amendment applies these reforms not only to National Intelligence Estimates, to which they are currently limited, but also to other analytical products of the National Intelligence Council, which is the senior group made up of intelligence people and people from public and private sectors—the senior group.

Second, our amendment will institutionalize a method of ensuring that an alternative analysis is used in the preparation of National Intelligence Estimates and is available to policymakers reviewing the estimates so they get the full picture.

It does this by providing for the establishment within the national intelligence authority of an office of alternative analysis, whose head will be appointed by the national intelligence director. The national intelligence director is required to ensure the independence of the office of alternative analysis. The unit is directed to review every National Intelligence Estimate, and any other intelligence report designated pursuant to guidelines established by the director.

The important purpose of the Rockefeller-Hutchison bill is the following: To thoroughly examine all facts, all assumptions, analytical methods, and judgments used in the estimate—in other words, the ability to question, to

be a contrarian, to dig deeper, to ask questions that otherwise and heretofore have not been asked. To make sure that the alternative analysis is available to policymakers, our amendment also requires that each National Intelligence Estimate or other product that is subject to an alternative analysis include the alternative analysis in its appendix.

While our Intelligence Committee's Iraq review did not include committee recommendations, I can assure our colleagues of the widespread support within our committee of the importance of alternative analysis or ''red teaming'' as it is called informally. It remains important for the body of the National Intelligence Estimate to state dissent from within the intelligence community. But beyond that, it is vital for a dedicated group of analysts to examine all aspects of an estimate—data, assumptions, analytic methods, and judgments.

The ultimate objective is to enable the National Intelligence Council personnel, the national intelligence director, and the executive and legislative branch policymakers to appraise the intelligence community's analysis on matters central to our national security.

I would like to express my special appreciation to Senator HUTCHISON who has been working on this for a long time and had a similar amendment. Our staffs worked flawlessly together. Senator ROBERTS, chairman of the full Intelligence Committee, also had a related amendment making it clear that the national intelligence director is responsible for ensuring competitive analysis throughout the intelligence community. I thank both Senators for their contribution.

I also wish to express my appreciation to Congresswoman JANE HARMAN for developing in the House an alternative analysis proposal from which we have benefited preparing this amendment.

I hope the Rockefeller-Hutchison amendment is acceptable.

I yield to the distinguished Senator from the State of Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank Senator ROCKEFELLER for working with me on this amendment. We had very similar amendments that both of us filed independently and our staffs got together with the distinguished chairman of the Governmental Affairs Committee, Senator COLLINS, and the ranking member, Senator LIEBERMAN, and I think we have come up with a comprehensive approach to competitive analysis. It is something the majority of people who have served on the Intelligence Committee know is desperately needed. Particularly as we are consolidating agencies and trying to make our agencies mesh better together. It is very important that we keep the competition of ideas, challenge assumptions, and ensure a forum is provided for alternative ideas and recommendations. The end result is an office which will perform what many refer to as ''red teaming'' that is so important to an effective intelligence network.

When Dr. Henry Kissinger testified before the Appropriations Committee, of which I am a member, he said, particularly with the consolidation of intelligence oversight, you have to make sure that you have some way of finding out if there were different conclusions reached with the same or even other extraneous material.

We had the challenge of making sure that the competition of ideas was not lost. I believe the Rockefeller-Hutchison amendment does exactly that.

I thank the Senator from West Virginia, Mr. ROCKEFELLER. I appreciate Senator ROBERTS also working with us on this, and Senator MIKULSKI. Senator KYL was interested in this as well. Everyone came together, and I think the result will be an office which is able to quickly adapt to terrorist threats. It will be an office of alternative intelligence analysis that will be able to challenge the assumptions and make sure that our highest policymakers, including the President of the United States, have access to this alternative analysis so that he will be able to make the very best decisions.

I thank the distinguished chairman and ranking member of the committee. I thank Senator ROCKEFELLER. I think we have a wonderful approach, a wonderful amendment that will add greatly to the bill and the goal we are all trying to reach of a quality intelligence product with which our President and our Secretary of State, Secretary of Defense can make decisions.

I yield the floor and urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I commend Senator ROCKEFELLER and Senator HUTCHISON for their amendment to improve the quality of intelligence analysis by creating a red team. Both of them talked to me very early on about the need for this improvement in our bill. Senator ROBERTS and Senator MIKULSKI have also been very interested in this issue. I am very pleased they have been able to come together. They have produced an excellent amendment that will improve the quality of intelligence analysis.

I also urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank our colleagues from West Virginia, Texas, and Kansas for this amendment. It has been a priority of our focus, Senator COLLINS and mine and the committee, to make sure that intelligence is not only coordinated by the national intelligence director and the dots are connected, but that intelligence be high quality and objective and subjected to the competition of ideas. This amendment makes that basic approach even stronger.

I thank our friends for all they have done. Senator ROCKEFELLER, again, if I haven't said it on the floor, has been a tremendous contributor to our effort. I thank him for all the support he has given.

The PRESIDING OFFICER. Is there further debate on amendment No. 3815?

If not, without objection, the amendment is agreed to.

The amendment (No. 3815) was agreed to.

AMENDMENT NO. 3942

Mr. LIEBERMAN. Mr. President, I have an amendment which I send to the desk at this time.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

Without objection, the amendment is in order, and the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself, Mr. MCCAIN, and Mr. BAYH, proposes an amendment numbered 3942.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that 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. LIEBERMAN. Mr. President, I rise with Senator MCCAIN to offer this amendment that takes the fight against terrorism right to where they live—right to their front lines.

This amendment says we will identify terrorist havens and—working with our allies—we will break them up and keep them on the run.

They will have no peace, no rest, no time to settle in and plot destruction.

This amendment also says we will attack and cut their most vital supply line—the disaffected young who serve as recruits.

We will do this by showing the Muslim world—especially the young—that we believe in and can help them achieve their dreams of living in a 21st century world that still respects the tenets of Islam.

These goals are a challenge. But if we succeed—and we must—this generation will see the calls to jihad fade and the global chorus celebrating our shared humanity and peaceful futures grow.

Let us start with the challenge of eliminating terrorist sanctuaries and their sense of safety.

As the 9/11 Commission reported, terrorist cells stretch from Afghanistan right into the major cities of Europe. And as 9/11 proved, into the United States as well.

To fight and win this war, we need to identify these pockets of terrorist sanctuaries and, working with other nations, develop strategies that in the words of the Commission:

Keep possible terrorists insecure and on the run using all instruments of national power.

The Commission did identify specific countries where we should concentrate our immediate efforts and I would like to focus on two of them.

One is Afghanistan. This almost goes without saying.

This is where al-Qaida trained its killers. This is where the 9/11 plot was hatched. This is where the tyrannical Taliban rulers enslaved an entire nation except for those who plotted global destruction.

This amendment says that Congress needs to authorize the aid and support necessary for the entire Afghan nation to finally realize its freedom, which is so close but still so fragile.

At this stage, half measures in Afghanistan are the same as throwing a five-foot rope to someone drowning 10 feet away. We can't let that happen.

Another country identified by the Commission was Pakistan.

In the immediate aftermath of 9/11, the Pakistani government made the choice to stand with us in the fight against terrorism at great risk to the stability of the nation and the lives of its leaders.

We have no choice but to stand by them.

Pakistan may be an imperfect ally at times. But they have been a loyal ally—committing troops on their own frontiers to hunt down al-Qaida fighters and denying them safe bases.

This amendment says we not only need to maintain our current financial support of Pakistan, but let the Pakistanis know we are making a long-term commitment to the future of their nation.

They need to know they have our support for as long as they remain true to their goals of defeating domestic extremists, promoting a civil society and preserving the hope of Pakistani democracy that can become another beacon for the Muslin world in the years to come.

Just imagine if one of the outcomes of the global war against terrorism was stable democracies in Afghanistan, Pakistan, and Iraq.

This goal is within our grasp. It is within our means. Only our vision can fail us now.

And vision—long-term vision—is what we will need to fulfill the second part of the strategy outlined in this amendment.

We must win over the minds of the Muslim world, especially the young, by reaching out and talking to them in ways we never have before.

Let me pose a question the 9/11 Commission asked.

How can a man hiding in a cave be communicating more effectively with the Muslim world than the nation that invented mass media and the Internet?

The 9/11 Commission report said:

To Muslim parents, terrorists like bin Laden have nothing to offer their children but visions of violence and death.

America and its friends have a crucial advantage. We can offer these parents a vision that gives their children a better future.

But it doesn't matter if we don't effectively communicate that vision.

This amendment says we must improve our mass communications efforts with the Muslim world through sustained and well-funded broadcast efforts on satellite television and radio.

That is a good start. But this can't just be an air war. Minds are won over more by actions than words.

And this amendment looks to engage the minds of Muslim youth by rebuilding scholarship, student exchange and library programs.

It also calls for establishing an International Youth Opportunity Fund—that other nations would be asked to contribute to—that would help build and operate primary and secondary schools in Muslim nations committed to public education.

Why do this? Because most of these nations are too poor to pay for public education.

Instead, students attend Madrassahs that far too often are classrooms where hatred is taught and bigotry affirmed.

Consider this: In Karachi, Pakistan, 200,000 students attend Madrassahs; 200,000 in one city alone. Multiply that over the entire Muslim world. We can't possibly keep up with those numbers year after year.

The challenges ahead of us are daunting. But with this amendment we say that we are ready and willing to go to the front lines of the terrorist world and take away the sanctuaries where they hide—and take back the minds that they steal.

This is another in a series of amendments that Senator MCCAIN and I have offered to carry out the recommendations of the 9/11 Commission. This one has to do with recommendations they have made with regard to foreign policy. It has been cleared on both sides. I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

If not, without objection, the amendment is agreed to.

The amendment (No. 3942) was agreed to.

Mr. LIEBERMAN. I thank the Chair.

AMENDMENT NO. 3781, AS MODIFIED

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask the Senate to turn to the consideration of amendment No. 3781 which is pending at the desk.

The PRESIDING OFFICER. Without objection, it will be the pending business.

Mr. WARNER. Mr. President, I send to the desk a modification of the amendment.

The PRESIDING OFFICER. Is there objection to the modification or has the modification been cleared by the leader?

Mr. WARNER. My understanding is the modification is accepted by the managers.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 119, strike lines 16 through 18 and insert: ''The National Intelligence Director shall convene regular meetings of the Joint Intelligence Community Council.''.

''(e) ADVICE AND OPINIONS OF MEMBERS OTHER THAN CHAIRMAN.—(1) A member of the Joint Intelligence Community Council (other than the Chairman) may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the National Intelligence Director to the President or the National Security Council, in the role of the Chairman as Chairman of the Joint Intelligence Community Council. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time the Chairman presents the advice of the Chairman to the President or the National Security Council, as the case may be.

''(2) The Chairman shall establish procedures to ensure that the presentation of the advice of the Chairman to the President or the National Security Council is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the Council.

''(f) RECOMMENDATIONS TO CONGRESS.—Any member of the Joint Intelligence Community Council may make such recommendations to Congress relating to the intelligence community as such member considers appropriate.''.

Mr. WARNER. Let me explain the modification. The original text required that the national intelligence director, in his capacity as chairman of the to-be-created joint intelligence community council that was part of the President's message, originally I had it that he would have monthly meetings of the council or meetings upon the request of the members of the council. But I think it more appropriate that that be modified, which has now been done, such that the amendment will read: Strike that paragraph and in its place put the national intelligence director shall convene regular meetings of the joint intelligence community council. And then I will address the balance of the amendment.

It has been my concern, and I think from a fair reading of the 9/11 Commission report, that we have to keep the views of those individuals primarily responsible for the collection, dissemination, and analysis of intelligence, those individuals who are on, incidentally, the council, who are your principal Cabinet officers—and that is the Secretaries of State, Defense, Homeland Security, Energy, Treasury, and the Attorney General—those individuals from time to time could develop positions regarding an intelligence issue which are at variance with the national intelligence director.

That collection of Cabinet officers is a vast array of individuals who will be working on issues of intelligence, collaborating with other agencies. From time to time, I am of the opinion that one or more of the members of the council might well have opinions that are at variance with the national intelligence director, and that when the national intelligence director goes to brief the President, there should be an obligation in law—I feel that strongly

about it—that those opinions at variance with the national intelligence director must be given to the President and such others who may be in attendance at the time the national intelligence director presents his or, as the case may be, her viewpoint.

The strength of our intelligence system has to be predicated on competition of thinking. I have always liked the word that the 9/11 Commission seized upon, ''imagination.'' It seems to me that type of competition and imagination is likely to develop better if we have the certainty that the viewpoints the President receives from the national intelligence director are not held by one or more of the members of that council, but that the President will receive the benefit of the other viewpoints. I think that system has to be made and put into law. It is so vitally important because, for example, as a member of the Intelligence Committee, when we examined, in extensive hearings conducted by Chairman ROBERTS and Vice Chairman ROCKEFELLER, the issue of weapons of mass destruction—and the conclusion that is being reached is that there was a substantial variance between the intelligence opinions and what is evolving as the actual, factual situation—it appears that the caveats were not given the proper emphasis by people, from the President on down, as they reviewed the work of the various intelligence-collecting agencies.

For example, the CIA had its position. From time to time, the Department of Energy had opinions at variance with the CIA. At times, there were opinions of the DIA, the Defense Intelligence Agency, which were at variance with the opinions of other departments and agencies. I think it is essential. Those caveats, in the case of weapons of mass destruction—I will use the phrase that they were not given the emphasis that was needed. That is a whole chapter. It is all laid out in a very extensive report developed by the Intelligence Committee, which is now public record.

This amendment, hopefully, will go a long way to ensure that diverse opinions will be given to our President. That is the thrust of it. It is patterned after the Goldwater-Nichols Act—a piece of legislation on which I was privileged to have a very active role, enacted by the Congress in the late 1980s—which organized some elements of the Department of Defense and, most specifically, the joint staff.

Mr. President, the act said that when the Chairman of the Joint Staff meets with the President of the United States, if there were members of the Joint Chiefs—i.e., Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps—who held opinions at variance with the Chairman, the Chairman was obligated under law to share those opinions with the President and such others as the Chairman of the Joint Chiefs of Staff was addressing. That has been a very effective piece of legislation.

This amendment is patterned almost verbatim after, and consistent with, the Goldwater-Nichols Act. Frequently, the 9/11 Commission, quite properly, paid a great deal of respect to that piece of legislation.

In concluding my remarks—and I have worked on this, but I have not found a solution yet—this Senator is concerned about the future of the Central Intelligence Agency as an organization and the role of the head of that agency—now our former distinguished former colleague, Porter Goss. Therein resides an enormous wealth of professional people in all the nations of the world, in one way or another, who have come up through the ranks, training and taking risks, often commensurate with the risks the men and women of the Armed Forces take, often with long separations from their families in some of the more difficult posts in the world. All of that infrastructure is going to remain under the Director of the CIA, who will now report no longer directly to the President but to the concept of the new national intelligence director. That has been decided.

I may eventually come up with the solution. I am trying to figure out how, if the Director of the CIA has a view that is held strongly, and it is at variance with the viewpoint of the national intelligence director, how that view can be properly emphasized and given to the President and such other persons as the NID will be addressing.

Mr. STEVENS. Will the Senator from Virginia yield for a question?

Mr. WARNER. Yes.

Mr. STEVENS. Mr. President, I am a cosponsor of this amendment. As I listen to the Senator from Virginia, I wonder, I don't see anything in this bill that allows the separate agencies to communicate with the Congress, as they have in the past, such as the CIA and the NRO. They have all come directly to us. Would your amendment preserve the right of the people who would disagree with the NID to communicate with the Congress, as well as the Executive?

Mr. WARNER. Yes. My last section, recommendations to Congress, says:

> Any member of the Joint Intelligence Community Council may make such recommendation to Congress relating to the intelligence community as such member considers appropriate.

So in this particular law is specific authority for those Cabinet officers and others to come directly to the Congress. I am glad my colleague brought that up.

Mr. STEVENS. Will the Senator yield for another question?

Mr. WARNER. Yes.

Mr. STEVENS. The Senator from Virginia and I both served for a while in the executive branch. We know Cabinet officers often put down in the law about who can contact Congress on what. I don't know if it happened on your watch. It happened on mine.

Mr. WARNER. It happened on mine when I was in the Department of Defense.

Mr. STEVENS. Some people don't believe this language is necessary. Would the Senator agree if there is going to be the right to communicate, to go up the line toward the President or to the Congress, it has to be in the law? People's rights have to be protected to contact us?

(Mr. CORNYN assumed the Chair.)

Mr. WARNER. Mr. President, I think it does, and that is why I have put in this paragraph, which is very explicit. This paragraph relates to the members of the Joint Intelligence Community Council, which I enumerated before as the several Cabinet officers—Secretaries of State, Defense, Homeland Security, Energy, and the Attorney General.

Mr. STEVENS. Mr. President, if the Senator will yield once more, I sort of feel we have to put some meat on the bones of this commission a little bit as we go along to allow the Secretaries of the whole community to participate in the process—budget, management, and oversight. Will not the amendment of the Senator from Virginia strengthen oversight by giving the people involved in oversight the chance to hear the dissenting opinions as well as the opinion of the NID?

Mr. WARNER. The Senator is correct, Mr. President.

Mr. STEVENS. I thank the Senator.

Mr. WARNER. The Senator is correct.

I yield the floor for a moment for the purpose of receiving the distinguished chairman's views on this matter.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, let me begin by saying that I very much appreciate the distinguished Senator from Virginia, the chairman of the Senate Armed Services Committee, working with Senator LIEBERMAN and me to modify his amendment so that it is consistent with the goals of our legislation.

The JICC was suggested by the White House when we drafted our bill. I view it as an important component of the Collins-Lieberman bill because it provides a forum for the national intelligence director to solicit the views of and to receive advice from key Cabinet members on a wide variety of issues.

It is important for the members of the JICC—the Secretaries of State, Defense, Homeland Security, and the Attorney General, and other Departments, Treasury as well—to see the council as a way to communicate their views freely to the NID to help the NID reach the right decisions and to be a forum for a wide variety of issues.

It is also important for the NID to remain firmly in control as chairman of the council, and I believe the modification makes clear that it is the NID who is the chairman and who will regularly convene this council.

Senator WARNER's amendment, as modified, meets both those goals. It

strengthens the bill. I can speak on behalf of the ranking member of the committee in urging its adoption. I thank the Senator again for working with us.

Mr. WARNER. Mr. President, I thank my distinguished friend and colleague, the manager. Might I solicit her views on the concern I have—and I have not figured out how to do it. The views of the Secretaries of State and Defense are very important because they have their own internal intelligence functions and they are subjected to this, particularly those two Cabinet officers, on a daily basis.

The Director of the CIA will report to the national intelligence director. The national intelligence director—I do not know quite what the infrastructure will be. It is conceived, as the Senator from Maine said earlier today and several times, that she is not creating a whole new department. But the CIA Director will remain in charge of what I say is the most magnificent reservoir of professionals to be found anywhere in the world. I cannot give, because of classification, the numbers, but it is in the tens of thousands of these individuals all over the world. The CIA Director has instantaneous contact with them and personal association as he travels—or she, as the case may be—worldwide. It is a network of these intelligence people who have knowledge that comes back up to the Director. He is hands on. The NID will not have that hands-on experience, cannot possibly because he has so much to manage.

One of the reasons for this legislation is to split off the functions of the former head of the CIA, the Director of the whole Central Intelligence, and to give those responsibilities, as it relates to the national collection of the intelligence program, portions of it to the NID to operate now, leaving the Director of the CIA to manage primarily that agency.

Supposing the Director of the CIA has a strongly held opinion and viewpoint which is at variance with the national intelligence director, but when the national intelligence director goes in to brief the President and the Security Council, in all likelihood the Director of the CIA will be at Langley. I am not certain how that varying opinion is given to the President and the other structure at the White House and the other Cabinet officers who may be present—for instance, at the meetings of the council, how that opinion can be expressed. I have not thought of it. Maybe the chairman and I can work on this in the few days remaining on this bill. But I am concerned about it.

Ms. COLLINS. Mr. President, I would be happy to consult further with the Senator about his concern in this area. I note that the 9/11 Commission and numerous other commissions have determined that the CIA Director has too many roles right now; that he has three roles. He is the principal adviser to the President for intelligence, he is the head of the CIA, and he is the manager of the intelligence community. There is widespread consensus that is too much for the CIA Director to have, so our legislation alters those roles.

The CIA Director would run the CIA. The national intelligence director would not run the day-to-day operations of the CIA, but the national intelligence director would become the principal adviser to the President on intelligence. The national intelligence director would also be the manager of the national intelligence programs. So we have defined those roles in that manner, but we have not altered the fact that the CIA Director would still be a Presidential appointee, he would still be confirmed by the Senate, and he would still have lots of access, in my view, just as Cabinet members are always going to be able to get their views to the President.

I think the structure the Senator has improved, the joint intelligence community council, strengthens that flow of communication, but that structure is there. I do not believe that is going to be a problem.

I also point out to the Senator that the Senator made an excellent point earlier when he was talking about the need for competitive analysis for a variety of viewpoints to be presented to the President and that we did not see that work as well as it should have in recent cases.

We have put in extensive language in our bill due to amendments authored by Senator LEVIN, as well as the work Senator LIEBERMAN and I and others have done, that makes very clear, for example, that when a National Intelligence Estimate is produced, that it has to highlight dissenting views. That does not happen now sufficiently. Often those dissenting views are hidden away in a footnote when they really should be up front for us to be aware that there are dissenting views and who has those dissenting views.

Another example: We require these estimates to have a confidence level attached to the prevailing view so we will know how much support that prevailing view has.

So throughout our bill there are requirements to make sure that dissenting views are heard. Indeed, the Rockefeller-Hutchinson amendment we just adopted also strengthens that by having the office of alternative analysis. So I think there are numerous safeguards to make sure that all voices are heard; that competitive analysis is strengthened; that dissenting views are highlighted.

Mr. WARNER. Mr. President, all along I have expressed complete concurrence in what the Senator has done in this bill to the extent the Senator and I have looked at various sections. I may have reservations about others and tomorrow I hope to engage with the Senator on a number of amendments.

As to the basic charter that the Senator outlined in her opening remarks, I am not going to at this time in any way indicate an objection. I just wanted to focus on this one individual, the CIA Director, who, as the Senator knows, under previous Presidents, and certainly President Bush, was in his office one way or another almost every day of the week working with him.

The CIA Director had this—I understand all of these responsibilities may be too much for one individual and I am not arguing about shifting that at the moment, but I am talking about this magnificent collection of individuals—and he is the boss—who take all of these risks together, collect and analyze and develop opinions and it comes up to him and he may form a view which is totally opposite to the NID, and the NID goes into the President. I have guaranteed here that the Cabinet officers have the right to have their views presented simultaneously, one view after another, to the President, but I am not satisfied yet that the views of the CIA Director, which could well be different than the analysis and conclusion of the NID, would be given to the President with the weight and sufficiency I think they merit.

Ms. COLLINS. I am certainly open to working with the distinguished Senator to address his concerns. I believe it would work similarly to how the views of the head of the NSA, the NRO, the NGA, and DIA get to the President now through the Secretary of Defense.

Under our bill, the CIA Director clearly reports to the NID, much as the head of the NSA reports to the Secretary of Defense. Nothing prevents the CIA Director or the NSA Director from going to the President, but we have changed the structure.

We are making the NID the principal adviser to the President for intelligence, but I cannot conceive of a situation where the NID would not be relying very heavily on the CIA Director for the advice that he is giving to the President. It would be foolhardy for him not to.

Mr. WARNER. I see the Senator's point. The Senator put out a very clear example of the NRO, the NSA, the old mapping agency, they report to the SECDEF—we have just given the SECDEF the right to have his views presented simultaneously if they are at variance with the NID at the time he meets with the President. That is not present in the Central Intelligence Agency. If those views vary, there is no obligation under the law to see that they are presented simultaneously.

The Senator says she cannot envision how they would not be. Well, it depends on the human factor, that these two individuals would get along and have a mutual respect. I can remember in my first term on the Intelligence Committee, there was a very colorful Director of the CIA, Mr. Casey. He was an extraordinary man. I remember he used to come in and testify before the committee. All the members would lean up like this because they could not understand him, to be honest. He spoke in a rather unusual way. I think he did that

to get through his testimony pretty quickly and get out of that hearing room. I am trying to put a note of humor into some serious things, but let us hope the Senator is right that as this law goes forward those individuals entrusted, the NID and CIA Director, can have a mutual respect and a mutual professional bond that will enable the views of the CIA Director to be given to the President if they are at variance with the NID. That is left up to the human quotient. This amendment, if adopted, puts it in law, not for the CIA Director but for the other members.

Ms. COLLINS. I say to the distinguished Senator that I think the analogy is very similar. The Secretary of Defense is not required to present the views of the NSA to the President. I think this works in a more collaborative way than we are giving the system credit for.

We have to be careful, while we put in all of these safeguards—and I support the chairman's amendment—that we do not create a situation where it is unclear who is the principal adviser to the President. And that, under our bill, is the national intelligence director.

Mr. WARNER. In no way do I wish to in any way diminish the significance of the NID that is now being created presumably by law in the future. I think we have had a healthy discussion. I appreciate the distinguished manager accepting this amendment, and I will continue to work on the Director of the CIA issue which I continue to be concerned about. Maybe as a consequence of this colloquy, those who might be following it could come up with an idea. I hope they would communicate it to me or to the distinguished chairman.

If there is no further debate, I ask that the amendment be agreed to.

I ask unanimous consent that the following Senators be added as cosponsors to the amendment: Senators STEVENS, INOUYE, TALENT, ALLARD, DOLE, CHAMBLISS, CORNYN, ENSIGN, and INHOFE.

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

Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 3781, as modified.

The amendment (No. 3781), as modified, was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. I wish to express my appreciation to the distinguished manager. I look forward to rejoining her tomorrow. Let us hope that those amendments that I bring forward largely with my colleague Mr. STEVENS will add to the strength of this bill.

Ms. COLLINS. I thank the Senator from Virginia for his contributions. It is always a pleasure to work with him, particularly on an issue that is so important to our Nation's security.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, we are still on the bill being managed by Senators LIEBERMAN and COLLINS?

The PRESIDING OFFICER. That is correct.

Mr. REID. I ask unanimous consent to lay aside any pending amendment.

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

Mr. REID. On behalf of Senator SCHUMER, I ask unanimous consent it be in order to call up eight amendments, and after their reporting, they be set aside. Senator SCHUMER understands these can be acted upon in different ways, but we offer those on his behalf. He indicated to me that a number of these he thinks will be accepted. This gives the staff a chance to look at them and the manager can tell Senator SCHUMER which of those will not be accepted and he can come and debate those.

Ms. COLLINS. Mr. President, reserving the right to object, I ask the Democratic whip that those amendments be interspersed with Republican amendments.

Mr. REID. That is appropriate. I modify my request that that be the case.

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

AMENDMENTS NOS. 3887 THROUGH 3894, EN BLOC

Mr. REID. I call up amendments numbered 3887 to 3894, en bloc.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] for Mr. SCHUMER, proposes amendments numbered 3887 through 3894, en bloc.

The amendments are as follows:

AMENDMENT NO. 3887

(Purpose: To amend the Foreign Intelligence Surveillance Act of 1978 to cover individuals, other than United States persons, who engage in international terrorism without affiliation with an international terrorist group)

At the appropriate place, insert the following:

SEC. ___. AMENDMENTS TO FISA.

(a) TREATMENT OF NON-UNITED STATES PERSONS WHO ENGAGE IN INTERNATIONAL TERRORISM WITHOUT AFFILIATION WITH INTERNATIONAL TERRORIST GROUPS.—

(1) IN GENERAL.—Section 101(b)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)(1)) is amended by adding at the end the following new subparagraph:

''(C) engages in international terrorism or activities in preparation therefor; or''.

(2) SUNSET.—The amendment made by paragraph (1) shall expire on the date that is 5 years after the date of enactment of this section.

(b) ADDITIONAL ANNUAL REPORTING REQUIREMENTS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—

(1) ADDITIONAL REPORTING REQUIREMENTS.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(A) by redesignating—

(i) title VI as title VII; and

(ii) section 601 as section 701; and

(B) by inserting after title V the following new title VI:

''TITLE VI—REPORTING REQUIREMENT

''ANNUAL REPORT OF THE ATTORNEY GENERAL

''SEC. 601. (a) In addition to the reports required by sections 107, 108, 306, 406, and 502 in April each year, the Attorney General shall submit to the appropriate committees of Congress each year a report setting forth with respect to the one-year period ending on the date of such report—

''(1) the aggregate number of non-United States persons targeted for orders issued under this Act, including a break-down of those targeted for—

''(A) electronic surveillance under section 105;

''(B) physical searches under section 304;

''(C) pen registers under section 402; and

''(D) access to records under section 501;

''(2) the number of individuals covered by an order issued under this Act who were determined pursuant to activities authorized by this Act to have acted wholly alone in the activities covered by such order;

''(3) the number of times that the Attorney General has authorized that information obtained under this Act may be used in a criminal proceeding or any information derived therefrom may be used in a criminal proceeding; and

''(4) in a manner consistent with the protection of the national security of the United States—

''(A) the portions of the documents and applications filed with the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted;

''(B) the portions of the opinions and orders of the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted.

''(b) The first report under this section shall be submitted not later than six months after the date of the enactment of this Act. Subsequent reports under this section shall be submitted annually thereafter.

''(c) In this section, the term 'appropriate committees of Congress' means—

''(1) the Select Committee on Intelligence and the Committee on the Judiciary of the Senate; and

''(2) the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.''.

(2) CLERICAL AMENDMENT.—The table of contents for that Act is amended by striking the items relating to title VI and inserting the following new items:

''TITLE VI—REPORTING REQUIREMENT

''Sec. 601. Annual report of the Attorney General.

''TITLE VII—EFFECTIVE DATE

''Sec. 701. Effective date.''.

AMENDMENT NO. 3888

(Purpose: To establish the United States Homeland Security Signal Corps to ensure proper communications between law enforcement agencies)

At the appropriate place, insert the following:

SEC. ___. U.S. HOMELAND SECURITY SIGNAL CORPS.

(a) SHORT TITLE.—This section may be cited as the ''U.S. Homeland Security Signal Act of 2004''.

(b) HOMELAND SECURITY SIGNAL CORPS.—

(1) IN GENERAL.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended by adding at the end the following:

''SEC. 510. HOMELAND SECURITY SIGNAL CORPS.

''(a) ESTABLISHMENT.—There is established, within the Directorate of Emergency Preparedness and Response, a Homeland Security Signal Corps (referred to in this section as the 'Signal Corps').

''(b) PERSONNEL.—The Signal Corps shall be comprised of specially trained police officers, firefighters, emergency medical technicians, and other emergency personnel.

''(c) RESPONSIBILITIES.—The Signal Corps shall—

''(1) ensure that first responders can communicate with one another, mobile command centers, headquarters, and the public at disaster sites or in the event of a terrorist attack or a national crisis;

''(2) provide sufficient training and equipment for fire, police, and medical units to enable those units to deal with all threats and contingencies in any environment; and

''(3) secure joint-use equipment, such as telecommunications trucks, that can access surviving telephone land lines to supplement communications access.

''(d) NATIONAL SIGNAL CORPS STANDARDS.—The Signal Corps shall establish a set of standard operating procedures, to be followed by signal corps throughout the United States, that will ensure that first responders from each Federal, State, and local agency have the methods and means to communicate with, or substitute for, first responders from other agencies in the event of a multi-state terrorist attack or a national crisis.

''(e) DEMONSTRATION SIGNAL CORPS.—

''(1) IN GENERAL.—The Secretary shall establish demonstration signal corps in New York City, and in the District of Columbia, consisting of specially trained law enforcement and other personnel. The New York City Signal Demonstration Corps shall consist of personnel from the New York Police Department, the Fire Department of New York, the Port Authority of New York and New Jersey, and other appropriate Federal, State, regional, or local personnel. The District of Columbia Signal Corps shall consist of specially trained personnel from all appropriate Federal, State, regional, and local law enforcement personnel in Washington, D.C., including from the Metropolitan Police Department.

''(2) RESPONSIBILITIES.—The demonstration signal corps established under this subsection shall—

''(A) ensure that 'best of breed' military communications technology is identified and secured for first responders;

''(B) ensure communications connectivity between the New York Police Department, the Fire Department of New York, and other appropriate Federal, State, regional, and local law enforcement personnel in the metropolitan New York City area;

''(C) identify the means of communication that work best in New York's tunnels, skyscrapers, and subways to maintain communications redundancy;

''(D) ensure communications connectivity between the Capitol Police, the Metropolitan Police Department, and other appropriate Federal, State, regional, and local law enforcement personnel in the metropolitan Washington, D.C. area;

''(E) identify the means of communication that work best in Washington, D.C.'s office buildings, tunnels, and subway system to maintain communications redundancy; and

''(F) serve as models for other major metropolitan areas across the Nation.

''(3) TEAM CAPTAINS.—The mayor of New York City and the District of Columbia shall appoint team captains to command communications companies drawn from the personnel described in paragraph (1).

''(4) TECHNICAL ASSISTANCE.—The Signal Corps Headquarters, located in Fort Monmouth, New Jersey, shall provide technical assistance to the New York City Demonstration Signal Corps.

''(f) REPORTING REQUIREMENT.—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Secretary shall submit a report, to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives, which outlines the progress of the Signal Corps in the preceding year and describes any problems, issues, or other impediments to effective communication between first responders in the event of a terrorist attack or a national crisis.

''(g) AUTHORIZATION OF APPROPRIATIONS.—

''(1) DEMONSTRATION SIGNAL CORPS.—There are authorized to be appropriated $50,000,000 for fiscal year 2005 to carry out subsection (e).

''(2) FISCAL YEARS 2006 THROUGH 2009.—There are authorized to be appropriated $100,000,000 for each of the fiscal years 2006 through 2008—

''(A) to create signal corps in high terrorism threat areas throughout the United States; and

''(B) to carry out the mission of the Signal Corps to assist Federal, State, and local law enforcement agencies to effectively communicate with each other during a terrorism event or a national crisis.''.

(2) TECHNICAL AMENDMENT.—Section 1(b) of the Homeland Security Act of 2002 (Public Law 107–296) is amended by inserting after the item relating to section 509 the following:

''Sec. 510. Homeland Security Signal Corps.''.

AMENDMENT NO. 3889

(Purpose: To establish a National Commission on the United States-Saudi Arabia Relationship)

At the appropriate place, insert the following new section:

SEC. ___. COMMISSION ON THE UNITED STATES-SAUDI ARABIA RELATIONSHIP.

(a) FINDINGS.—Congress makes the following findings:

(1) Despite improvements in counter-terrorism cooperation between the Governments of the United States and Saudi Arabia following the terrorist attacks in Riyadh, Saudi Arabia on May 12, 2003, the relationship between the United States and Saudi Arabia continues to be problematic in regard to combating Islamic extremism.

(2) The Government of Saudi Arabia has not always responded promptly and fully to United States requests for assistance in the global war on Islamist terrorism. Examples of this lack of cooperation have included an unwillingness to provide the United States Government with access to individuals wanted for questioning in relation to terrorist acts and to assist in investigations of terrorist activities.

(3) The state religion of Saudi Arabia, a militant and exclusionary form of Islam known as Wahhabism, preaches violence against nonbelievers or infidels and serves as the religious basis for Osama Bin Laden and al Qaeda. Through support for madrassas, mosques, cultural centers, and other entities Saudi Arabia has actively supported the spread of this religious sect.

(4) The Secretary of State designated Saudi Arabia 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 systematic, ongoing, and egregious violations of religious freedom.

(5) The Department of State's International Religious Freedom Report for 2004 concluded that religious freedom does not exist in Saudi Arabia.

(6) The Ambassador-at-large for International Religious Freedom expressed concern about Saudi Arabia's export of religious extremism and intolerance to other countries where religious freedom for Muslims is respected.

(7) Historically, the Government of Saudi Arabia has allowed financiers of terrorism to operate within its borders.

(8) The Government of Saudi Arabia stated in February 2004 that it would establish a national commission to combat terrorist financing within Saudi Arabia, however, it has not fulfilled that promise.

(9) There have been no reports of the Government of Saudi Arabia pursuing the arrest, trial, or punishment of individuals who have provided financial support for terrorist activities. The laws of Saudi Arabia to combat terrorist financing have not been fully implemented.

(b) COMMISSION ON THE UNITED STATES-SAUDI ARABIA RELATIONSHIP.—

(1) ESTABLISHMENT.—There is established, within the legislative branch, the National Commission on the United States-Saudi Arabia Relationship (in this section referred to as the ''Commission'').

(2) PURPOSES.—The purposes of the Commission are to investigate, evaluate, and report on—

(A) the current status and activities of diplomatic relations between the Government of the United States and the Government of Saudi Arabia;

(B) the degree of cooperation exhibited by the Government of Saudi Arabia toward the Government of the United States in relation to intelligence, security cooperation, and the fight against Islamist terrorism;

(C) the status of the support provided by the Government of Saudi Arabia to promote the dissemination of Wahabbism; and

(D) the efforts of the Government of Saudi Arabia to enact domestic measures to curtail terrorist financing.

(3) AUTHORITY.—The Commission is authorized to carry out purposes described in paragraph (2).

(c) COMPOSITION OF COMMISSION.—The Commission shall be composed of 10 members, as follows:

(1) Two members appointed by the President, one of whom the President shall designate as the chairman of the Commission.

(2) Two members appointed by the Speaker of the House of Representatives.

(3) Two members appointed by the minority leader of the House of Representatives.

(4) Two members appointed by the majority leader of the Senate.

(5) Two members appointed by the minority leader of the Senate.

(d) REPORT.—Not later that 270 days after the date of the enactment of this Act, the Commission shall submit to the President and Congress a report on the relationship between the United States and Saudi Arabia. The report shall include the recommendations of the Commission to—

(1) increase the transparency of diplomatic relations between the Government of the United States and the Government of Saudi Arabia;

(2) improve cooperation between Government of the United States and the Government of Saudi Arabia in efforts to share intelligence information related to the war on terror;

(3) curtail the support and dissemination of Wahabbism by the Government of Saudi Arabia;

(4) enhance the efforts of the Government of Saudi Arabia to combat terrorist financing;

(5) create a foreign policy strategy for the United States to improve cooperation with the Government of Saudi Arabia in the war on terror, including any recommendations regarding the use of sanctions or other diplomatic measures;

(6) curtail the support or toleration of violations of religious freedom by the Government of Saudi Arabia; and

(7) encourage the Government of Saudi Arabia to improve the human rights conditions in Saudi Arabia that have been identified as poor by the Department of State.

(e) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of the enactment of this Act.

AMENDMENT NO. 3890

(Purpose: To improve the security of hazardous materials transported by truck)

At the end, add the following new title:

TITLE IV—SECURITY OF TRUCKS TRANSPORTING HAZARDOUS MATERIALS

SEC. 401. IMPROVEMENTS TO SECURITY OF HAZARDOUS MATERIALS TRANSPORTED BY TRUCK.

(a) PLAN FOR IMPROVING SECURITY OF HAZARDOUS MATERIALS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall develop a plan for improving the security of hazardous materials transported by truck.

(2) CONTENT.—The plan under paragraph (1) shall include—

(A) a plan for tracking such hazardous materials;

(B) a strategy for preventing hijackings of trucks carrying such materials; and

(C) a proposed mechanism for recovering lost or stolen trucks carrying such materials.

(b) INCREASED INSPECTION OF TRUCKS.—

(1) IN GENERAL.—The Secretary of Homeland Security shall require that the number of trucks entering the United States that are manually searched and screened in fiscal year 2005 is at least twice the number of trucks manually searched and screened in fiscal year 2004.

(2) WAIT TIMES AT INSPECTIONS.—In carrying out this section, the Secretary shall ensure that the average wait time for trucks entering the United States does not increase.

(c) BACKGROUND CHECKS.—Beginning not later than 3 years after the date of the enactment of this Act, the Secretary of Homeland Security shall require background checks of all truck drivers with certifications to transport hazardous materials.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of enactment of this Act.

AMENDMENT NO. 3891

(Purpose: To improve rail security)

At the end, add the following new title:

TITLE IV—RAIL SECURITY

SEC. 401. IMPROVEMENTS TO RAIL SECURITY.

(a) PROTECTION OF PASSENGER AREAS IN RAIL STATIONS.—The Secretary of Homeland Security shall require that, not later than 2 years after the date of the enactment of this Act, each of the 30 rail stations in the United States with the highest daily rate of passenger traffic be equipped with a sufficient number of wall-mounted and ceiling-mounted radiological, biological, chemical, and explosive detectors to provide coverage of the entire passenger area of such station.

(b) USE OF THREAT DETECTORS REQUIRED ON CERTAIN TRAINS.—The Secretary of Homeland Security shall require that, not later than 3 years after the date of the enactment of this Act, each train traveling through any of the 10 rail stations in the United States with the highest daily rate of passenger traffic be equipped with a radiological, biological, chemical, and explosive detector.

(c) REPORT ON SAFETY OF PASSENGER RAIL TUNNELS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall—

(A) review the safety and security of all passenger rail tunnels, including in particular the access and egress points of such tunnels; and

(B) submit to Congress a report on needs for improving the safety and security of passenger rail tunnels.

(2) CONTENT.—The report under paragraph (1) shall include recommendations regarding the funding necessary to eliminate security deficiencies at, and upgrade the safety of, passenger rail tunnels.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of enactment of this Act.

AMENDMENT NO. 3892

(Purpose: To strengthen border security)

At the end, add the following new title:

TITLE IV—STRENGTHENING BORDER SECURITY

SEC. 401. TECHNOLOGY STANDARDS TO CONFIRM IDENTITY.

Section 403(c)(1) of the USA PATRIOT ACT (8 U.S.C. 1379(1)) is amended to read as follows:

''(1) IN GENERAL.—The Attorney General, the Secretary of State, and the Secretary of Homeland Security jointly, through the National Institute of Standards and Technology (NIST), and in consultation with the Secretary of the Treasury and other Federal law enforcement and intelligence agencies that the Attorney General, Secretary of State, and the Secretary of Homeland Security deem appropriate and in consultation with Congress, shall prior to October 26, 2005, develop and certify a technology standard, including appropriate biometric identifier standards for multiple immutable physical characteristics, such as fingerprints and eye retinas, that can be used to verify the identity of persons applying for a United States visa or such persons seeking to enter the United States pursuant to a visa for the purposes of conducting background checks, confirming identity, and ensuring that a person has not received a visa under a different name.''.

SEC. 402. REQUIREMENTS FOR ENTRY AND EXIT DOCUMENTS.

(a) IN GENERAL.—Paragraph (1) of section 303(b) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732(b)) is amended to read as follows:

''(1) IN GENERAL.—Not later than October 25, 2005, the Attorney General, the Secretary of State, and the Secretary of Homeland Security shall issue to aliens only machine-readable, tamper-resistant visas and other travel and entry documents that use biometric identifiers for multiple immutable characteristics, such as fingerprints and eye retinas. The Attorney General, the Secretary of State, and the Secretary of Homeland Security shall jointly establish biometric and document identification standards for multiple immutable physical characteristics, such as fingerprints and eye retinas, to be employed on such visas and other travel and entry documents.''.

(b) CONSULTATION REQUIREMENTS.—Such section is further amended—

(1) in paragraph (2)(A), by striking ''in consultation with the Secretary of State'' and inserting ''in consultation with the Secretary of State and the Secretary of Homeland Security''; and

(2) in paragraph (2)(B) in the matter preceding clause (i), by striking ''in consultation with the Secretary of State'' and inserting ''in consultation with the Secretary of State and the Secretary of Homeland Security''.

(c) USE OF READERS AND SCANNERS.—Paragraph (2)(B) of such section, as amended by subsection (b), is further amended—

(1) by redesignating clauses (i), (ii), and (iii) as (ii), (iii), and (iv), respectively; and

(2) by inserting before clause (ii), as redesignated by paragraph (1), the following:

''(i) can authenticate biometric identifiers of multiple immutable physical characteristics, as such fingerprints and eye retinas;''.

(d) CERTIFICATION REQUIREMENTS.—Subsection (c) of such section is amended to read as follows:

''(1) IN GENERAL.—Not later than October 26, 2005, the government of each country that is designated to participate in the visa waiver program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) shall certify, as a condition of designation or a continuation of that designation, that it has a program to issue to its nationals machine-readable passports that are tamper-resistant and incorporate biometric and authentication identifiers of multiple immutable physical characteristics, such as fingerprints and eye retina scans. This paragraph shall not be construed to rescind the requirement of subsections (a)(3) and (c)(2)(B)(i) of section 217 of the Immigration and Nationality Act.''.

AMENDMENT NO. 3893

(Purpose: To require inspection of cargo at ports in the United States)

At the end, add the following new title:

TITLE IV—OTHER MATTERS

SEC. 401. CARGO INSPECTION.

(a) MANUAL INSPECTION.—Not later than 2 years after the date of enactment of this Act, the Secretary of Homeland Security shall require that the number of containers manually inspected at ports in the United States is not less than 10 percent of the total number of containers off-loaded at such ports.

(b) INSPECTION FOR NUCLEAR MATERIALS.—Not later than 2 years after the date of enactment of this Act, the Secretary of Homeland Security shall require that the number of containers screened for nuclear or radiological materials is not less than 100 percent of the total number of containers off-loaded at ports in the United States.

(c) INSPECTION FOR CHEMICAL, BIOLOGICAL, AND EXPLOSIVE MATERIALS.—Not later than 4 years after the date of enactment of this Act, the Secretary of Homeland Security shall require that the 10 ports in the United States that off-load the highest number of containers have the capability to screen not less than 10 percent of the total number of containers off-loaded at each such port for chemical, biological, and explosive materials.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on port security technology. Such report shall include—

(1) a description of the progress made in the research and development of port security technologies;

(2) a comprehensive schedule detailing the amount of time necessary to test and install appropriate port security technologies; and

(3) the total amount of funds necessary to develop, produce, and install appropriate port security technologies.

(e) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of enactment of this Act.

AMENDMENT NO. 3894

(Purpose: To amend the Homeland Security Act of 2002 to enhance cybersecurity, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. ENHANCING CYBERSECURITY.

(a) SHORT TITLE.—This section may be cited as the ''Department of Homeland Security Cybersecurity Enhancement Act of 2004''.

(b) ASSISTANT SECRETARY FOR CYBERSECURITY.—

(1) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is amended by adding at the end the following:

''SEC. 203. ASSISTANT SECRETARY FOR CYBERSECURITY.

''(a) IN GENERAL.—There shall be in the Directorate for Information Analysis and Infrastructure Protection a National Cybersecurity Office headed by an Assistant Secretary for Cybersecurity (in this section referred to as the 'Assistant Secretary'), who shall assist the Secretary in promoting cybersecurity for the Nation.

''(b) GENERAL AUTHORITY.—The Assistant Secretary, subject to the direction and control of the Secretary, shall have primary authority within the Department for all cybersecurity-related critical infrastructure protection programs of the Department, including with respect to policy formulation and program management.

''(c) RESPONSIBILITIES.—The responsibilities of the Assistant Secretary shall include the following:

''(1) To establish and manage—

''(A) a national cybersecurity response system that includes the ability to—

''(i) analyze the effect of cybersecurity threat information on national critical infrastructure; and

''(ii) aid in the detection and warning of attacks on, and in the restoration of, cybersecurity infrastructure in the aftermath of such attacks;

''(B) a national cybersecurity threat and vulnerability reduction program that identifies cybersecurity vulnerabilities that would have a national effect on critical infrastructure, performs vulnerability assessments on information technologies, and coordinates the mitigation of such vulnerabilities;

''(C) a national cybersecurity awareness and training program that promotes cybersecurity awareness among the public and the private sectors and promotes cybersecurity training and education programs;

''(D) a government cybersecurity program to coordinate and consult with Federal, State, and local governments to enhance their cybersecurity programs; and

''(E) a national security and international cybersecurity cooperation program to help foster Federal efforts to enhance international cybersecurity awareness and cooperation.

''(2) To coordinate with the private sector on the program under paragraph (1) as appropriate, and to promote cybersecurity information sharing, vulnerability assessment, and threat warning regarding critical infrastructure.

''(3) To coordinate with other directorates and offices within the Department on the cybersecurity aspects of their missions.

''(4) To coordinate with the Under Secretary for Emergency Preparedness and Response to ensure that the National Response Plan developed pursuant to section 502(6) of the Homeland Security Act of 2002 (6 U.S.C. 312(6)) includes appropriate measures for the recovery of the cybersecurity elements of critical infrastructure.

''(5) To develop processes for information sharing with the private sector, consistent with section 214, that—

''(A) promote voluntary cybersecurity best practices, standards, and benchmarks that are responsive to rapid technology changes and to the security needs of critical infrastructure; and

''(B) consider roles of Federal, State, local, and foreign governments and the private sector, including the insurance industry and auditors.

''(6) To coordinate with the Chief Information Officer of the Department in establishing a secure information sharing architecture and information sharing processes, including with respect to the Department's operation centers.

''(7) To consult with the Electronic Crimes Task Force of the United States Secret Service on private sector outreach and information activities.

''(8) To consult with the Office for Domestic Preparedness to ensure that realistic cybersecurity scenarios are incorporated into tabletop and recovery exercises.

''(9) To consult and coordinate, as appropriate, with other Federal agencies on cybersecurity-related programs, policies, and operations.

''(10) To consult and coordinate within the Department and, where appropriate, with other relevant Federal agencies, on security of digital control systems, such as Supervisory Control and Data Acquisition (SCADA) systems.

''(d) AUTHORITY OVER THE NATIONAL COMMUNICATIONS SYSTEM.—The Assistant Secretary shall have primary authority within the Department over the National Communications System.''.

(2) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to subtitle A of title II the following:

''203. Assistant Secretary for Cybersecurity.''.

(c) CYBERSECURITY DEFINED.—Section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101) is amended by adding at the end the following:

''(17)(A) The term 'cybersecurity' means the prevention of damage to, the protection of, and the restoration of computers, electronic communications systems, electronic communication services, wire communication, and electronic communication, including information contained therein, to ensure its availability, integrity, authentication, confidentiality, and nonrepudiation.

''(B) In this paragraph—

''(i) each of the terms 'damage' and 'computer' has the meaning that term has in section 1030 of title 18, United States Code; and

''(ii) each of the terms 'electronic communications system', 'electronic communication service', 'wire communication', and 'electronic communication' has the meaning that term has in section 2510 of title 18, United States Code.''.

Mr. REID. While I have the floor, we have a lot more amendments filed than I ever dreamed. Everyone should understand there will have to be significant movement on this bill in the next 24 hours in the way of offering amendments. I hope people offer amendments tomorrow. It will be terribly embarrassing to the leaders if Monday we have nothing to vote on. I think that will not be the case, but I think we are to the point where there may have to be something done to move this along more quickly than it has been. That may include filing cloture in the next 24 hours.

Ms. COLLINS. Mr. President, I appreciate the assistance of the assistant Democratic leader. I echo his hope that Members will come to the Chamber tomorrow to offer and debate their amendments. We will delay the votes on those amendments until Monday, but we have an awful lot of work to be done. Senator LIEBERMAN and I will be here tomorrow ready to engage on these amendments. I ask my colleagues to be here as well and help make progress on this very important bill. We are making some progress, but we are not making enough progress and we need to pick up the pace. We need to whittle down that amendment list. We need to have some of those amendments simply go away. I hope that will happen.

Mr. LEAHY. Mr. President. I rise today to address one of the most timely and sensitive recommendations of the 9/11 Commission, the creation of a civil liberties board to provide checks and balances against the ''enormous authority'' granted the government by the people. Critically, the 9/11 Commission concluded: ''We must find ways of reconciling security with liberty, since the success of one helps protect the other.''

There is no doubt that such a board is needed given the heightened civil liberty tensions created by the realities of terrorism and modern warfare. The tools of the information age include precise data-gathering, networked databases, and tracking and sensing technologies impervious to the common eye. As Vice Chairman Hamilton noted, in a recent Judiciary Committee hearing, as he commented about the security steps and the technology that are quickly becoming ubiquitous in our post-9/11 world, these developments are ''an astounding intrusion in the lives of ordinary Americans that (are) routine today in government.'' With such powerful tools come heightened responsibility.

We have an obligation to ensure that there are mechanisms in place that will see to it that this power is subject to appropriate checks and balances and Congressional oversight. An effective civil liberties board can provide those checks and contribute to preserving both liberty and security.

We need a civil liberties board that can think critically and independently about the policies we implement as a nation and about how they affect our fundamental rights. The board must be able to participate in the policymaking

process, review technology choices and options, peer into various agencies and assess actions, review classified materials and investigate concerns. This board must have the versatility to work closely with government officials, but at the same time it must be sufficiently independent to assess those government policies without fear, favor or compromise. Given these significant responsibilities, it is equally important that the board be accountable to Congress and the American people.

The civil liberties board outlined in the Collins-Lieberman bill makes great strides in meeting these goals. It represents a true bipartisan effort from conception to introduction. I was pleased to work with these Senators along with Senator DURBIN to make this civil liberties board the kind of board that would honor the 9/11 Commission's intent.

It establishes a bipartisan board that would have access to the documents and information needed to assess our counterterrorism policies that affect the vital civil liberties of the American people. It provides a mechanism for them to work closely with administration officials, including working with a network of newly created department-level privacy and civil liberty officers, whose proximity to decision makers will ensure that these concerns are considered from the earliest stages of policy formation. It requires the board to report to Congress on a regular basis, and without compromising classified information, inform the public about policies that impact their vital liberties.

Unfortunately, Senator KYL's amendment No. 3801 attempts to gut the carefully crafted, bipartisan civil liberty and privacy provisions that are the hallmark of the Collins-Lieberman bill. It is inconsistent with the recommendations of the 9/11 Commission and would undermine the civil liberties that we cherish.

First, Senator KYL's amendment attempts to cut off the information flow that would ensure that the board could accurately, reliably and effectively advise on the impact of policies on privacy and civil liberties. It would also eliminate the board's ability to subpoena people outside of the government who may have important information, such as private sector data collectors working on behalf of the government. It would also eliminate the privacy officers, as well as public hearings and reports to the public.

It is clear that the commission intended for the board to have access to the information that it needed in order to effectively assess policy. In a recent House Judiciary Committee hearing, Vice Chairman Hamilton said, ''The key requirement is that government agencies must be required to respond to the board.'' He went on to note that the commission itself had subpoena power, and ''if we had not had it, our job would have been much, much more difficult.'' I would note that the Collins-Lieberman bill does not go as far as to mandate subpoena power over government officials, but rather only over relevant non-government persons.

Given the secrecy and civil liberty concerns that have been pervasive in this administration, we should be enhancing information flow and dialogue, not eliminating it. It is ironic that at the same time that the administration has been making it more difficult for the public to learn what government agencies are up to, the government and its private sector partners have been quietly building more and more databases to learn and store more information about the American people.

Second, Senator KYL's amendment would eliminate a provision that gives the board important guidance on how to review requests by the government for new and enhanced powers. This is a critical omission. In order to balance liberty and security, we need to ensure that the board will be looking at policies through a prism that would allow for heightened security protection, while also ensuring that intrusions are not disproportionate to benefits, or that they would unduly undermine privacy and civil liberties.

Contrary to assertions that this would be a ''citizen board'' gone wild that would ''haul any agent in anywhere in the world and grill him,'' this board would consist of highly accomplished members who have the appropriate clearance to access classified information, who have extensive professional expertise on civil liberty and privacy issues, and who have the knowledge of how to view these concerns in the context of important anti-terrorism objectives.

It simply cannot be that the government can create and implement policies that impinge on our liberties without having to account to anyone. While that may make things convenient or easy, it certainly does not preserve the ideals of the country we are fighting to protect.

Senator KYL's amendment is just the latest of recent attempts to undermine the 9/11 Commission's clear recommendations for an effective board. The administration recently issued an executive order that attempted to foist upon us an anemic civil liberties board. I and several of my colleagues noted in a letter to the President that the board was not a bipartisan or independent entity. It had no authority to access information and no accountability. It was housed in the Department of Justice, and comprised solely of administration officials from the law enforcement and intelligence communities, precisely the communities that the board would have an obligation to oversee. It was the proverbial case of the fox guarding the henhouse. This would not have resulted in a vigorous consideration of policy that the Commission intended.

As the Commission noted, the ''burden of proof for retaining a particular governmental power should be on the Executive, to explain (a) that the power actually materially enhances security and (b) that there is adequate supervision of the Executive's use of the powers to ensure protection of civil liberties. If the power is granted, there must be adequate guidelines and oversight to properly confine its use.''

We should be looking for ways to ensure that this burden of proof will be met, rather than weakening oversight and accountability.

As the 9/11 Commission noted, when it comes to security and civil liberties, ''while protecting our homeland, Americans should be mindful of threats to vital personal and civil liberties. This balancing is no easy task, but we must constantly strive to keep it right.''

Senator KYL's amendment fails to ''keep it right,'' and I urge that the Senate honor the spirit of the recommendations of the 9/11 Commission, and reject it.

Mr. DURBIN. Mr. President, in 1957, when America was caught off guard by the Soviet Union's launch of a satellite named Sputnik, Congress passed a massive education bill, the National Defense Education Act, which poured federal funds into the study of math, science and strategic languages like Russian. Thirty-two years later, the Soviet Union fell. Following the 9/11 attacks and the Commission's report, we need to rise to the challenge once again. We must intensify the study of strategic foreign languages, like Arabic, Pashto and Korean.

According to the Department of Education, only 22 of the 1.8 million American students who graduated from college last year earned degrees in Arabic. This figure has remained about the same over the last decade. And as the 9/11 Commission reported, and the Washington Post and the New York Times reiterated on Tuesday, the lack of qualified personnel has left hundreds of thousands of pages of intercepted terrorist communication untranslated.

On page 77 of the Commission's report, the Commission notes the FBI ''lacked sufficient translators proficient in Arabic and other key languages, resulting in a significant backlog of untranslated intercepts.'' On page 92, the report adds, ''Very few American colleges and universities offered programs in Middle Eastern languages or Islamic studies.'' The 9/11 report also calls for both the CIA and the FBI to strengthen their language programs and for the FBI to improve ability to attract candidates with technological skills.

At a hearing of the Senate Governmental Affairs Oversight of Government Management Subcommittee on September 14, 9/11 Commissioner Fred Fielding described the lack of language skills at intelligence agencies as: ''embarrassing.'' FBI Assistant Director for Administrative Services Mark Bullock testified that while the agency is receiving thousands of applicants, the agency has found it ''difficult hiring agents with language skills, skills in the right languages.''

We can do better.

The bill we are considering today does address education, but not completely. This bill calls for better coordination of joint training among the intelligence agencies and authorizes, but does not direct, the National Intelligence Director to collaborate with the intelligence agencies to establish a scholarship program, in which students agree to work for an agency in exchange for financial assistance with their education. I commend the managers of the bill for including this innovative education subsidy-for-service approach. This is an important mechanism to put in place, although we need to do more to expand instruction in critical foreign language, particularly in the area of science and technology. If no one is teaching the classes we need, we can't improve the pool of qualified applicants from which the intelligence community can recruit.

The amendment my colleagues from Florida and Hawaii and I sponsored will expand targeted educational opportunities to promote integration of intelligence collection and analysis and to prepare intelligence personnel to work with other agencies.

We ask the National Intelligence Director to assess the current needs of the intelligence community with respect to language skills; determine whether the community's needs for critical foreign language skills and understanding science and technology terms in those languages are being met; and report to Congress recommendations for programs to help meet those needs.

In developing its report, the NID is directed to take into account existing education grant programs through the Departments of Education and Defense. The first report is due to Congress within one year of enactment, and then again each year after that.

I thank the Senators from Florida and Hawaii for their willingness to work together in developing language to strengthen the critical language education component of the reorganized intelligence community. And I thank my colleagues from Maine and Connecticut for their leadership in crafting and managing this important piece of legislation, which now includes this additional focus on strengthening necessary language skills in this country.

Mr. MCCAIN. Mr. President, as I noted on the floor yesterday, the Senate is now engaged in perhaps the most important debate of the 108th Congress. Increasing the security of our country against terrorist attack requires new strategies, new ways of thinking, and new ways of organizing our Government. That is what this legislative debate is all about.

Earlier this month, I joined with Senator LIEBERMAN and others in introducing comprehensive legislation to implement all the 9/11 Commission recommendations. Along with Senator LIEBERMAN, I pledged that the Commission's recommendations—including the ones not already addressed in the underlying bill—would be fully debated. Yesterday, we offered an amendment that was designed to address the Commission's transportation security-related recommendations. Now we will offer an amendment that encompasses the Commission's diplomacy, foreign aid, and military-related recommendations.

I send an amendment to the desk on behalf of myself, Senator LIEBERMAN, and Senator BAYH, and ask for its immediate consideration.

This amendment is very similar to Title V of S. 2774, the 9/11 Commission Report Implementation Act of 2004, which we introduced earlier this month. In drafting this amendment, we have worked with the Senate Foreign Relations Committee to develop consensus language concerning areas of their jurisdiction, and with the Senate Armed Services and Banking Committees to develop language for other provisions.

As the Commission report observed, there were many deficiencies that led to the terrorist attacks of September 11. Not the least was the failure of the United States to adapt its foreign policy to address the changed realities of the post-cold war era. In hindsight, it is evident that we did not do enough to prevent the creation of terrorist sanctuaries, encourage the democratization of the Greater Middle East, and engage countries such as Pakistan, Afghanistan and Saudi Arabia in their battles against fundamentalism.

In light of this realization, the Commission found that no single set of strategies is sufficient to prevent future terrorist attacks. The United States must use all of the instruments at our disposal to counter the short- and long-term threats posed by international terrorism. For this reason, it is critical to pay due attention to the role of diplomacy, foreign aid, and the military.

Consistent with the Commission's recommendations, this amendment requires the executive branch to develop a strategy to address and, where possible, eliminate terrorist sanctuaries. It renews the U.S. commitment to Pakistan's future, in light of the critical role that country plays in the war on terror, and authorizes assistance to Afghanistan—aid that many of us believe must be increased. The amendment addresses our relations with Saudi Arabia and suggests establishing an international contact group to develop a multilateral counterterrorism strategy.

Our amendment also calls on the U.S. Government to work with our coalition partners to develop a common approach to the treatment of detainees, and reiterates standards for the humane treatment of enemy detainees—standards that our soldiers and officials should have been following all along. Most of this language was taken directly from the Senate-passed version of the Department of Defense Authorization bill, which is now pending in conference. The Senate has already spoken on this issue once; however, it has yet to be enacted. We must continue pressing to ensure that America treats individuals in its custody humanely, as the Commission rightly advocates. As the 9/11 Commission rightly pointed out, allowing torture of prisoners only makes it more difficult to build the alliances and support we need to defeat terrorism. Portrayals of inhumane treatment of captured terrorists hinder our ability to engage in the wider struggle against them.

Other provisions in this amendment are designed to enhance America's ability to fight the war of ideas by promoting universal values of democracy, tolerance, and openness. It authorizes funding for U.S. broadcasts to Muslim countries, and authorizes an increase in our education and exchange programs. In addition, it establishes an International Youth Opportunity Fund that will provide financial assistance for the improvement of public education in the Middle East. Finally, the amendment notes that the proliferation of weapons of mass destruction is a grave and gathering threat to this country, and requires the executive branch to develop a strategy to expand and strengthen our nonproliferation programs.

This amendment is the next step in fulfilling the mandate of the 9/11 Commission recommendations and ensuring that we orient our diplomacy, foreign aid, and military programs toward combating terrorist threats, in both the short and long terms. The provisions in our amendment are not the only steps that are needed, and there are a number of other important actions that the executive branch should undertake in order to fully implement the Commission's recommendations. But I believe that passing this amendment is a vital and necessary step.

I urge my colleagues to support this amendment.

AMENDMENT NO. 3771

Mr. BINGAMAN. Mr. President, since the Manhattan project, national laboratory scientists have performed an inherently unique governmental function of not only designing and producing nuclear weapons, but analyzing intelligence on foreign nuclear weapons and nuclear technology.

In performing this governmental function, the national laboratory scientists have staffed the Joint Atomic Intelligence Committee, which produces strategic assessments on foreign nuclear weapons programs, helped produce technical assessments of foreign nuclear weapons, and provided critical technical support in disabling improvised nuclear devices, which in today's post-9/11 environment is one of our greatest fears. In many cases these functions are performed through rotational assignments to the intelligence community staff.

The amendment I have offered today, and cosponsored by my colleague Senator DOMENICI, preserves this rotational capability in the intelligence reforms proposed by Senators COLLINS and LIEBERMAN.

Typically, national laboratory personnel can be detailed to the intelligence community, or any Federal agency, through the Intergovernmental Personnel Act. This act permits employees of federally funded research and development centers, FFRDCs, to act for set periods of time, as staff of a Government agency.

This amendment does not alter the authorities under the act. What this amendment does is reinforce the congressional intent, that in addition to the authorities granted to the National Intelligence Authority to staff its centers with personnel from other branches of the Government, that it continue to be able to utilize the unique capabilities of Department of Energy staff and other FFRDCs.

MORNING BUSINESS

Ms. COLLINS. Mr. President, I ask unanimous consent there be a period of morning business, with Senators speaking for up to 10 minutes each.

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

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. I ask unanimous consent to proceed for 17 minutes.

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

HONORING OUR ARMED FORCES

PRIVATE FIRST CLASS KEVIN OTT

Mr. DEWINE. Mr. President, I come to the Senate this evening to pay tribute to a fellow Ohioan, a brave soldier who lost his life while making our own safer. Army PFC Kevin Ott disappeared north of Baghdad, Iraq, on June 25th, 2003. Three days later, on June 28th, everyone's worst fears were realized. The military personnel found Kevin's body following a very exhaustive search. Kevin Ott was only 27 years of age.

When I think about the loss of young soldiers, I am reminded of something that President John F. Kennedy said to the 1st Armored Division in Fort Stewart, GA, as they were prepared to deploy to Cuba. In 1962 this is what President Kennedy said:

> Many years ago, according to a story there was found in a sentry box in Gibraltar, a poem which said:
>
> God and the soldier all men adore
> In time of danger and not before
> When the danger is past and all things righted
> God is forgotten and the soldier slighted.

President Kennedy continued:

> This country does not forget God or the soldier.
>
> Upon both we depend.

President Kennedy said it so well. We depend on our service men and women. We depended on Kevin Ott. We will not forget him. We will never forget him.

I rise this evening to remember Kevin, to remember him as he was and will forever remain, a devoted son, supportive brother, and patriotic soldier. Kevin Ott grew up in Orient, OH, son of loving parents Alma and Charles Ott. He and his sisters and brothers were close and would remain so throughout their lives. Kevin went to Westfall High School. He was on the basketball team and enjoyed spending time with friends. He graduated in 1993 and then attended Bluffton College where he was a sports lover and played defensive end on the football team.

While Kevin's love of sports certainly ran deep, his passion also was for motorcycles. He certainly loved that bike. His sister Pam remembers how Kevin took her for a ride one afternoon. She said:

> I was afraid because I knew he loved to go really fast. But, to my surprise, he went slowly because he knew I was scared.

Kevin was a good brother, son, and friend. He was deeply devoted to his family, and with their love and guidance he became devoted to his church and his faith. Throughout his entire life Kevin was a strongly spiritual person. He was active in his church from the time he was 4 years old. His parents fondly remember how his faith guided their son's decisions and how it directed his life.

At the Southwest Community Church of the Nazarene, Kevin worked with the youth group, sang in the choir, and went on a mission trip to Mexico where he helped build houses.

These experiences taught him to see the hand of God in all things. It increased his faith, the faith that would see him through the difficult times in his life.

The tragic events of September 11 changed the course of Kevin's life as it changed the course of so many people's lives. It was then that he decided he wanted to join the military. He wanted to prevent such a tragedy ever happening again.

Kevin left his job as a machinist with J.W. Groves and Sons to enlist in the Army in January 2002. He immediately excelled. His comrades remembered him as a capable soldier, someone they could always count on.

Kevin's brother-in-law Jim Pack recalled that Kevin loved the military. He said that he had found his calling in life. Kevin was assigned to Battery B, 3rd Battalion, 18th Field Artillery Regiment, based out of Fort Sill, OK. While in Iraq, Kevin was in charge of guarding an ammunitions depot. He wrote home often, and his parents could tell their son was proud of his service. They saved Kevin's postcards and looked forward to any contact they had with him. They recognized that their son loved Army life and knew that he believed in what he was doing.

Though the news of Kevin's death was, of course, devastating to the Ott family, Charles said his son was at peace with his faith and was not afraid to die. His faith saw him through and took him to his final resting place.

When we lost Kevin Ott, our Nation mourned. Charles and Alma lost their loving son. Pam, Julie, Joyce, Diane, and Doug lost their loyal brother. They miss his joking nature, his love of sports and motorcycles. They miss him coaching his nephew's Little League team. But most of all they just miss spending time with him.

So, as President Kennedy said, over 40 years ago: ''This country does not forget . . . the soldier.'' This country will not forget Kevin Ott.

OHIO FLOODING

Mr. DEWINE. Mr. President, we are all well aware of the horrible devastation that has been caused by the four hurricanes that have hit the United States and have hit other countries so far this season: Charley, Frances, Ivan, and Jeanne. We have seen pictures of the damaged homes. We have seen the victims interviewed on TV. We have seen the floodwaters that have drowned many towns and villages.

My home State of Ohio has also suffered damage from these storms, damage that has warranted the classification of 30 of our counties as Federal disaster areas. These counties include: Athens, Belmont, Carroll, Columbiana, Gallia, Guernsey, Harrison, Jefferson, Mahoning, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Stark, Trumbull, Tuscarawas, Vinton, and Washington.

Last Friday, when I was home, it was my privilege to tour some of the flooded areas in Ohio and to talk to some of the people who are victims. I must say, while I have seen floods before, been along the Ohio Valley before, and seen what floods can do, I was, again, overwhelmed at what I saw. Some areas looked like a war zone.

The power of water never ceases to amaze me, whether it is the Ohio River when it comes up, or in creeks and streams a long way from the Ohio River when flash floods come up and do unbelievable damage and homes are literally ripped apart and trailers are ripped apart. I saw this when I was home.

At its highest, the floodwaters in Marietta, along the Ohio River, covered the first floor of many buildings. From this picture, a photo taken by the Washington County Sheriff's Office in Marietta, you can get some idea of what Marietta looked like when the river came up—absolutely unbelievable. People used boats to get around as they surveyed what they lost and what they could possibly save.

In other areas, trucks were washed away, mobile homes stood on their sides, and debris was everywhere. There was garbage strewn clear up into the trees.

Many businesses were, of course, forced to close, as owners went out to salvage what was left. As you can see from this picture, it did not look like this Wendy's restaurant—after this picture was taken—would be serving Wendy's hamburgers very soon.

But we do know that people are resilient. When I got there, it had been 5 or 6 days since the peak of the water, which you are seeing in these pictures. People were already getting back into business. Businesses were opening. People are unbelievably resilient.

This picture of Wendy's is absolutely unbelievable at the height of the flood.

Belmont County and the village of Neffs, which I visited, experienced severe flash flooding—a different kind of water damage, a different type of flooding, but unbelievably devastating as well. I toured Neffs, and water was freely flowing in and out of houses as the long cleanup process began—again, another picture of what this looked like, not when I was there, but during the height of the storm.

Twenty Ohio counties are like this—20. Already, nearly 4,000 individuals in the disaster-declared counties have called to apply for assistance.

Part of the tragedy of the floods is that so many residents simply did not have the warning that they needed.

Senator VOINOVICH and I and Congressman STRICKLAND and Congressman NEY and others are asking the National Weather Service to give us an explanation for what happened because when I was in Marietta a number of people told us that night they received a flood warning, but then the National Weather Service took that warning off. People went to bed. Yet during the night the flood warning was put back on. Many businesspeople and homeowners, for example, whom I talked to simply were not prepared. The floodwater came up during the night and did tremendous damage. People were not prepared for that.

So our question to the Weather Service is, why was that mistake made? Why was the flood warning on, then off, and then back on again? It was very misleading to people, and we want to know exactly what the explanation is. We have written to the Weather Service and we want a full explanation about that.

One of the most heartening things, though—you see this, and I have seen it before in Ohio; I know we have seen it across the country—is the number of people who help neighbors, who come out and do unbelievable work. They come out of nowhere and volunteer. I saw amazing displays of human kindness, generosity of the human spirit, neighbors helping each other get their lives back together. As they have done so many times before, Ohioans have pulled together as part of a community effort to reclaim their houses and businesses from the floodwaters.

I met a woman, for example, who is originally from Neffs, the town I was talking about, but now lives in Columbus and works at Ohio State. She asked for 4 days of vacation time—it was granted—so she could go back home, back to Neffs and help with the cleanup. She joined several other volunteers to help serve meals in the basement of one of the local churches, a place I had the occasion to visit.

It is that kind of spirit we see. This is one of the countless acts of generosity exhibited by people that I saw.

I saw a business, for example, in Marietta. The woman who was cleaning up—it was horrible; all her inventory had mud all over it; it was a mess—she said: Senator, come in the back. I want to show you something. I went back with her, and clear in the back through her business, back in the back alley. And she said: Look. There were people there who came in to volunteer, and they had an assembly line, and they were washing the inventory she had, these little toys, these little different things.

It was an amazing thing to see. These were all volunteers, all people who came in. They had some adults and some younger kids who were in there who were volunteering and helping her.

I saw another man in Marietta. He was cleaning up his business. He took me back and showed me where there was a piano. He said: You will not believe this story. He said: The flood kept coming up and coming up and coming up. We were up in the second story of our house. He said: I kept taking pictures and posting them on the Internet. All of a sudden my phone rang. I couldn't figure out who was calling me.

He said the person who called on the phone said: Are you—and the person said his name. He answered: Yes, this is such-and-such business.

He said: We are outside.

He said: You can't be outside. There is nothing but water outside.

He said: Well, look outside.

So he went to his window on the second story and there were a couple guys in a row boat. And they said: We are here to help you. And they had come in from the countryside, rode their boat into Marietta, and they had some cement blocks they had brought because they had heard that his piano was getting soaked and he couldn't do anything about it. It was getting ruined. So they brought that boat in, landed the boat in his place of business, tied the boat up, unloaded the cement blocks, lifted the piano up, put the cement blocks under the piano so the piano would not get wet.

He said: I had never seen those guys before. They left and I still don't know who they are. But I had tears coming out of my eyes when they left because I couldn't believe it, that someone would do that for me.

That is the type of thing you see, in spite of all the horror, replicated not only in Ohio but across this country.

I must also say, I was so impressed by the work of the men and women of the Ohio National Guard—they always do a great job—the Ohio Emergency Management Agency, the great professionals who are always there; FEMA; the county directors, their staffs, countless other volunteers who have worked tirelessly to help bring food, clean water to the area. They have already distributed almost $5 million in disaster assistance and continue to work as we speak tonight. We appreciate their efforts and thank them.

It is going to take months before these flood-ravaged communities return to normal. We must make sure to employ every resource available to make sure Ohioans can get back in their homes and back to their jobs, the day-to-day business, as soon as possible. It has been rough going for so many different people in Ohio.

I, again, thank all those who have volunteered and assisted in the cleanup and rebuilding. I know what I saw in Ohio with our flood damage has been replicated in so many other States, not just in this country but in other countries. There are many other people hurting.

I came to the floor tonight to share with my colleagues what I saw as I traveled around my State last week. It is so heartening to see how people fight back. I know this Congress will continue to be of assistance and of help to them as we reach out to all the victims of the hurricanes and we give them a hand up and help them through this crisis.

My experience has been that in the immediate days after the hurricanes and flooding, it is always tough. But the weeks and months even beyond that are tough as well. We are not going to forget them. I know my colleagues in the Senate will not forget them, and the Federal Government will not forget them. We need to let them know we are still going to be there with them through the Federal agencies and be of assistance.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Oklahoma.

COMMERCIAL SPACE LAUNCH ACT

Mr. INHOFE. Mr. President, I have had the honor for almost 50 years now of being active in aviation. I have had occasion to fly almost every kind of airplane that is up there, and it is an experience that not many people get a chance to have in their normal lives. Something is on the horizon right now that is an opportunity for people to do, things that they never dreamed possible; that is, to feel and to experience the thrill of flight into space.

Yesterday marked a very significant day in history. Today, the SpaceShipOne, designed by Burt Rutan, who happens to be a friend of mine, and piloted by Mike Melvill, who is a 62-year-old pilot, made the first flight of the two required flights to claim the $10 million Ansari X-Prize for carrying three people, or an equivalent weight, to space twice within 2 weeks.

The brilliant concept of the Ansari X Prize exemplifies the excellence that can be achieved through an incentivized approach rather than a governmental mandate of punitive approach. To incentivize and safely get government out of the way is the philosophy of the Commercial Space

Launch Amendments Act of 2004, H.R. 3752. Tempt not only the pocketbook but also the vision of anyone who has the creativity and imagination to pursue it.

Space programs originally sprang to life in the face of international competition. The realities of the cold war stimulated creativity, and innovation in a dramatic new way. This government and NASA responded with successes that dazzled even the most optimistic dreamer.

Since then, space advances have gone through the same channels with the same motivation, but without the urgency and vision of ''The Space Race.''

The Ansari X Prize is a refreshing new appeal to anyone who has the faith and vision to respond. It is an appeal that looks for the likes of Charles Lindberg—people who will think within the restraints of practicality but without the restraints of a rutted concept of how it is supposed to be done.

I am grateful that this competition is doing what it was designed to do: spur a budding industry in commercial human space flight. Today's flight paves the way for making space flight available to the public, a long-time dream of many. Just imagine, ordinary people will be able to experience the thrill of flying in space. But despite the existing technology to make this dream possible, there are some obstacles.

One such barrier stems from this body. The text of my bill, S. 2772, the Space CHASE Act, should pass the Senate right now as an amendment to H.R. 3752. H.R. 3752 readily passed the House of Representatives in March by a vote of 402 to 1. The House of Representatives and the Federal Aviation Administration have agreed to the improvements embodied in my Space CHASE Act, so it is better than the bill that passed the House by 402 to 1. However, some Democrats are blocking this legislation that is vital to the fledgling commercial space industry.

The legislation would define FAA licensing rules for suborbital flights, as well as require passengers to sign waivers of legal liability. Without such a waiver, the investors fear excessive lawsuits by trial lawyers. Without investors, many of these fledgling entrepreneurial space companies will not be able to get off the ground, both literally and figuratively.

Unfortunately, some Democrats want to cater to the trial lawyers who want the ability to file frivolous lawsuits and collect millions of dollars should something go wrong on a flight. Perhaps even more frustrating is that they will not explain exactly why they are objecting.

Aviation Week is a magazine I have subscribed to for many years. It is a publication I have grown to respect. I have read it with frequency over the years. It has an excellent article in its September 27, 2004, edition. It states:

One or more Democrats on the Senate Commerce Committee are holding up this bill, and, maddeningly, no one will say publicly what they object to.

They are holding it up, and they won't say why they are holding it up.

If they do not pass it, part of their legacy may be that of having strangled an infant industry in the crib.

I compliment the chairman of the committee, Senator MCCAIN. He has been very helpful. But there are some Democrats we can't identify, as the Aviation Week publication states.

I ask unanimous consent that these four pages of Aviation Week be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. INHOFE. Mr. President, I also want to call to the attention of the Senate a letter from nine discrete enterprises that are on the cutting edge of this burgeoning industry. They all endorse the text of my Space CHASE Act and call for the immediate passage of my legislation as a substitute language for a thus-perfected H.R. 3752.

I commend these entrepreneurs by name: Jeff Greason, XCOR Aerospace; John Carmack, Armadilla Aerospace; Elon Musk, Space X; George French, Rocketplane, Ltd.; Eric Anderson, Space Adventures; Honorable Andrea Seastrand, California Space Authority; Bill Khourie, Oklahoma Space Industry Development Authority; Brian Chase, Space Foundation; Greg Allison, Chairman, Executive Committee, National Space Society.

I ask unanimous consent that their letter also be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. INHOFE. Mr. President, it is a shame when we pander to trial lawyers and allow them to kill an industry before it is able to get off the ground.

I urge these Democrats to stop the obstruction and pass this important legislation that will let the American people have the freedom to experience space, the final frontier.

EXHIBIT 1

[From Aviation Week & Space Technology, September, 2004]

COMMERCIAL SPACE—AT A TIPPING POINT

''I have such faith in the private sector that I've dreamed of the day that government monopoly would be replaced by commercialization or at least some form of partnership.'' Those words, on the prospects of private manned spacecraft and industrial space stations, were penned by President Ronald Reagan in a letter to Aviation Week & Space Technology's publisher in March 1985.

It has taken two decades, but now there are tangible indications that such a dream could indeed become a reality. Many of them are detailed in this week's cover story (see p. 54) and in the lead article of our World News and Analysis section (see p. 26) But one of the most visible indications is yet to come.

This week, Scaled Composites' SpaceShipOne is set to make the first of the two required flights to claim the $10 million Ansari X-Prize far hauling three people (or an equivalent mass) to the edge of space twice within two weeks. The prize could be won as early as next week. Designer Burt Rutan and/or the team's backer, Microsoft billionaire Paul Allen, may even climb in for the ride.

Should Rutan's crew stumble, there are others fast on their heels. A half-dozen or more serious competitors have spent many times the prize money in developing their vehicles. That is exactly what Peter Diamandis had in mind when he organized the X-Prize Foundation a decade ago to seed a private human spaceflight industry, and our hat is off to him.

Dating even further back, there were entrepreneurs saying that making human spaceflight both reliable and affordable was possible with existing technology. The problems, they said, were not technical but financial and political, even psychological.

Unintentionally, NASA made it hard for these pioneers to attract capital. First, the agency was a competitor because it operated its own expensive vehicle, the space shuttle. Then, when NASA tried to develop a new, cheaper-to-operate reusable vehicle, it opted to include challenging cutting-edge technologies, making program execution difficult and expensive. As one might expect, when entrepreneurs went looking on Wall Street for money for their simpler projects, they were rebuffed by potential investors who believed human spaceflight was inherently costly, dangerous and prone to failure.

On top of that was a chicken-and-egg problem of economics. To drastically lower the costs of spaceflight, a vehicle needs to fly frequently. But to find enough customers to fly frequently, one needs to have low prices, and that requires low costs. The solution seemed to lie in new markets, and the one many believed could jump-start the private sector was ''space tourism.''

When the Russians began selling spare seats on Soyuz spacecraft to dot.com zillionaires and rock stars, it became harder to posit the economic impossibility of space tourism. But it was the first suborbital flight of SpaceShipOne to 100 km. altitude, back in June, that removed the giggle factor from discussions of space tourism. Pictures of pilot Mike Melvill sitting atop his privately financed craft and waving victoriously made the front pages of newspapers aroung the world.

Meanwhile, things had changed in the government. Many in Congress ''got religion'' on commercial space (more about that later). NASA began working seriously with startups such as Bigelow Aerospace on manned spacecraft. And Adminstrator Sean O'Keefe bought into the prize paradigm, seeing to it that the agency itself would sponsor some of these fledgling enterprises.

This week, Robert T. Bigelow will make some news on that front. He plans to announce a $50-million ''America's Space Prize,'' an orbital analog to the X-Prize. To be sure, taking humans into orbit and bringing them back safely is orders of magnitude more difficult than taking them on a suborbital ride, but don't dismiss the salutary effects of $50 million.

Prizes have an important and glorious place in the history of flight, dating to the days of the Wrights, Curtiss and Santos-Dumont. The revolution in public understanding of the practicality and possibilities of aviation that Charles A. Lindbergh wrought in laying claim to the $25,000 Orteig Prize in 1927 is widely seen as having been a necessary ingredient for the growth of an airline industry.

We night now be poised at a tipping point in public understanding of the commercial possibilities of human spaceflight. But if the X -Prize is to be remembered as something more than a stunt, there must be a legal

framework in place for market-based spaceflight to grow.

There is a measure pending in Congress that would go a long way to providing that framework—the Commercial Space Launch Amendments Act of 2004 (H.R. 3752)—but it has been stalled in the Senate for months. It would spell but FAA licensing rules for suborbital flights. Most critically, the bill would make it clear that paying passengers are ''spaceflight participants'' who understand the risks. And it would require them to sign waivers of legal liability. Without this provision, the prospect of relatives of passengers suing and collecting millions in damages following an accident would likely scare off investors. And without outside investors, many of today's space entrepreneurs will go out of business in the not-too-distant future.

This bill is not some wild-eyed libertarian scheme. It passed the House in March by a vote of 402–1. Science Committee Chairman Sherwood Boehlert of New York, perhaps the ''greenest'' Republican in the House, even went along with a provision that would exempt these launchers from some environmental regulations. Admitting he first thought the legislation ''flighty,'' Boehlert says he came to see it as essential: ''This is about a lot more than 'joy rides' in space, although there's nothing wrong with such an enterprise. This is about the future of the U.S. aerospace industry.''

One or more Democrats on the Senate Commerce Committee are holding up this bill, and, maddeningly, no one will say publicly what they object to. Democrats say they want the job growth the Bush administration has failed to deliver. If they do, they ought to pass this bill. If they do not pass it, part of their legacy may be that of having strangled an infant industry in the crib.

SHOW TIME

(By Craig Covault)

The Scaled Composites SpaceShipOne suborbital vehicle that will attempt this week and next to twice rocket above 100 km. to claim the $10-million Ansari X-Prize highlights a major new wave of commercial space activity taking stride into early October.

The initiatives include the planned announcement this week of a new, much larger $50-million ''America's Space Prize'' to spur private development of an orbital space transport that by 2010 could carry 5–7 astronauts to an orbiting station.

The new America's Space Prize is being initiated by millionaire developer Robert T. Bigelow who wants a low-cost manned transport to take crews to Bigelow Aerospace inflatable space modules under development in North Las Vegas, Nev. (see cover and p. 54).

Until recently, individual commercial space ''wannabes'' struggled for technical competence and respectability.

But a more business-like approach by commercial space company managers coupled with their innovative use of technology is enabling them to capture bigger government contracts, such as the $42 million just awarded by the Defense Advanced Research Projects Agency (Darpa) for quick reaction launch developments.

The new commercial companies are also increasingly ''breaking down the hidebound bureaucracies'' of NASA and the larger aerospace companies, says Courtney Stadd, NASA's former chief of staff. He says commercial space is beginning to do this with a more diverse, and increasingly capable base of dynamic new companies, staffed with younger engineers more representative of the future than the past.

They are forming in effect ''a new national incubator for technology and talent'' that aerospace industry can draw upon for major innovation, says Stadd, who has long been affiliated with commercial space start-ups.

Private/commercial ventures like SpaceShipOne carry an inherent high-risk of failure, including the risk of a fatal accident, But the new commercial space industry is far more steeled to accept and recover from failure than it was earlier, Stadd said.

Several new commercial space milestones have just occurred or will occur by early October. They include:

SpaceShipOne X-Prize flights. The flights to capture the X-Prize are set for Sept. 29 and Oct. 4. at Mojave, Calif. Propulsion subcontractor SpaceDev of Poway, Calif., itself a small commercial space company, has delivered to the Burt Rutan team three new SpaceShipOne systems carrying more synthetic rubber fuel and nitrous oxide oxidizer than used during the demonstration flight June 21 (AWST June 28, p. 28).

This is to provide more performance earlier in the profile when the vehicle is in the lower, more dense, atmospheric phase of flight. More performance at lower altitude is necessary so the engine can more assuredly propel the slightly heavier X-Prize configured vehicle higher than 62 mi. altitude.

Canadian Da Vinci X-Prize attempt. The Canadian Da Vinci Project plans to make its first try for the X-Prize with launch of a manned rocket from a balloon 80,000 ft. over Kindersley, Saskatchewan, as early as Oct. 2. SpaceDev's ''Dream Chaser'' manned vehicle. In a major new development, SpaceDev has just signed an agreement with the NASA Ames Research Center for technology collaboration in the design of what initially would be a new higher-performance commercial manned suborbital vehicle capable of carrying 3–5 people to about 100 mi. altitude. This compares with about 62 mi. for the 1–3-person SpaceShipOne.

The new vehicle will be designed using the basic aerodynamic shape of the Orbital Sciences/U.S Air Force X–34 demonstrator that never flew before cancellation. The X–34 concept, but not the original hardware, will be redesigned for manned vertical launch on suborbital flights as early as 2008, depending upon the flow of commercial or government funding for the program, said Jim Benson, SpaceDev chairman and CEO. SpaceDev and Ames will work on potential utilization of the vehicle by NASA, USAF or the private sector. Benson's ultimate objective is to scale the Dream Chaser design to an orbital vehicle.

SpaceX Falcon 1 to Vandenberg. The first privately developed low-cost Falcon 1 unmanned orbital launch vehicle has been completed by SpaceX at its El Segundo plant and is to be taken late this week or early next to its launch pad at Vandenberg AFB, Calif. This major milestone could lead to the first launch by late November, if a static firing on the pad can be completed before the Western Range closes for upgrades throughout December, says Elon Musk, CEO of Space Exploration Technologies (SpaceX).

Musk told Aviation Week & Space Technology he now has four firm contracts with deposits for Falcon missions, including one just signed with the Malaysian Space Agency. Two others are from the U.S. government and one from Bigelow Aerospace for launch of a Genesis one-third scale inflatable module.

Commercial Zero-G flights. Amerijet International of Fort Lauderdale, Fla., has just become the first commercial airline ever to receive FAA certification for commercial parabolic weightless flight operations. The flights are to begin Oct. 9, at about $3,000 per person. The project will use a Boeing 727–200 to conduct parabolic tourist flights out of the Fort Lauderdale/Hollywood, Fla., International Airport in connection with the Zero-6 Corp.

NASA Commercial Transportation Call. NASA has just issued a comprehensive ''request for information'' sounding out the aerospace industry for new concepts in commercial space transportation services related to the agency's new exploration initiative. It is the single most comprehensive call for commercial space transportation concepts ever made by the agency. Responses, on which new contracting can be based, are due back next September.

Darpa/USAF Rapid Launch Awards. Nearly $42 million in development contracts are just being awarded to four companies, mostly commercial space start-ups, as Phase II in the Darpa/USAF Falcon Small Launch Vehicle (SLV) program. The effort is designed to lead to a much more rapid launch capability for 1,000-lb. critical U.S. military satellites for less than $5 million per mission.

Except for Lockheed Martin, which received $11.6 million, all of the winners are small start-up companies. Lockheed's concept builds on its Michoud, La., development of a hybrid powered system burning nontoxic fuel and liquid oxygen (AWST Feb. 3, 2003, p. 54).

There is a range of innovative launch concepts among the commercial start-up companies that won, but only AirLaunch would deploy its two-stage ''QuickReach'' liquid propellant booster from a C–17 that could be staged from literally any friendly airfield around the world.

It won $11.3 million to explore the concept that could provide great launch flexibility. Several small commercial space companies including Space Vector Inc. of Chatsworth, Calif., and Universal Space Lines of Newport Beach, Calif., are part of the AirLaunch team.

Another winner was Microcosm of El Segundo, Calif., that is developing the simple liquid oxygen/kerosene pressure-fed ''Scorpius'' engine system. Microcosm won $10.4 million to further develop its 52-ft.-long Sprite launcher using a six-barrel cluster of the engines to provide 120,000 lb. of liftoff thrust.

SpaceX, also based in El Segundo, won $8 million for its Falcon launcher. The project, by coincidence, has the same name as the overall Air Force/Darpa program.

All of the selected companies are to conduct 10-month preliminary design studies toward a downselect to one or more competitors that will perform an actual launch in 2007.

But since SpaceX is more advanced in hardware fabrication than the other competitors, Darpa and USAF have asked it to perform an ''Early Responsive Launch Test'' with a Falcon 1 launch about July 2005. Musk said the objective will be to cut the Falcon's launch pad time by 50%—to just one week.

This Aviation Week & Space Technology editor recently saw the first Falcon flight vehicle in final assembly at the SpaceX plant in El Segundo.

It is being readied this week for the trip to Vandenberg AFB and mounting on its launch pad.

The flight engines have completed their final pre-integration qualification tests at SpaceX test facilities near McGregor, Tex., and development engines and components continue to be tested at the site. Earlier turbopump problems have been solved. But some other engine components, earlier made of aluminum, have been switched to Inconel because of a hairline crack found in one several weeks ago.

The Falcon 1 first stage will likely end up weighing less than its specification weight—a highly positive factor. This is because earlier delays allowed the program enough time to switch a composite interstage for a heavier aluminum structure, saving about 150 lb.

Also switching the overall thrust frame from steel to titanium has saved another 100 lb. These improvements will be especially helpful when the vehicle eventually begins to launch heavier payloads, Musk said.

EXHIBIT 2

SEPTEMBER 21, 2004.

Senator JOHN MCCAIN,
Chair, Committee on Commerce, Science, & Transportation, 241 Russell Building, Washington, DC.
Senator SAM BROWNBACK,
Chair, Subcommittee on Science Technology, & Space, 303 Hart Building, Washington, DC.
Senator ERNEST HOLLINGS,
Ranking Member, Committee on Commerce, Science, & Transportation, 125 Russell Building, Washington, DC.
Senator JOHN BREAUX,
Chair, Subcommittee on Science Technology, & Space, 503 Hart Building, Washington, DC.

DEAR SIRS, we are writing to respectfully urge that the Senate Committee on Commerce, Science and Transportation quickly report out and secure Senate passage of a perfected H.R. 3752, the Commercial Space Launch Amendments Act of 2004.

As you know, the U.S. commercial expendable launch vehicle industry is challenged by a highly competitive international market, and NASA's recent orbital reusable launch vehicle development programs have not been successful. Fortunately, the recent emergence of a suborbital reusable launch vehicle industry demonstrates that American entrepreneurs are bringing new private resources and ideas to bear on the vital goal of advancing U.S. space transportation capabilities and competitiveness, largely to pursue new commercial human spaceflight markets.

The Commercial Space Launch Act of 1984 (CSLA) as amended (49 U.S.C. 70101 et seq.) gives the Secretary of Transportation sole regulatory authority over commercial space transportation, which has been delegated to the FAA's Office of the Associate Administrator for Commercial Space Transportation (ASST). That jurisdiction includes launches of a 'suborbital rocket' on a 'suborbital trajectory,' but unfortunately those terms were never defined in law. Furthermore, the CSLA is silent on the issue of whether such vehicles might carry persons. Therefore, confusion has developed as to whether some of these suborbital RLVs might be regulated as a rocket or an airplane, or worse still, as both. Last summer a joint hearing of the Senate Science, Technology, and Space Subcommittee and the House Space & Aeronautics Subcommittee heard strong and unanimous testimony that this regulatory uncertainty was a real and unnecessary barrier to private investment in, and therefore the success of, this new suborbital RLV industry, and that Congress needed to fill in the ''legislative gap'' in the CSLA.

To address this issue, the House Science Committee crafted H.R. 3752 after holding an additional public hearing, a private forum, and extensive individual consultations with a broad range of interested and disinterested parties. The legislation not only creates the regulatory clarity needed by industry, but strikes an important balance among competing public policy objectives.

For example, the legislation continues the CSLA's priority of protecting the safety of the uninvolved public, and also affirms FAA/AST's authority to set safety-related requirements for crew in these new vehicles. H.R. 3752 and its committee report also directs FAA to promulgate regulations requiring the full disclosure of the safety records of human spaceflight vehicles and their operating companies to all prospective customers, giving them informed consent. (This is very different from the laissez faire approach which existed during the barnstorming days of aviation.)

The bill also creates a new, streamlined experimental permit regime that allows for expedited review of non-revenue flight test of vehicles so that companies can demonstrate safe operating records before proceeding to revenue flight. It should be noted that flights under experimental permits would not be eligible to receive federal indemnification against third party claims, and even during revenue flight the spaceflight participants would not be eligible to receive indemnification.

For all of these reasons, H.R. 3752 was sponsored by the committee's bipartisan leadership, and passed the House of Representatives by the overwhelming vote of 402 to 1 in March of this year.

In recent months, Congressional staff, the FAA, and various industry participants have developed compromise language that would provide greater clarity over regulatory jurisdiction of so-called hybrid suborbital rockets. With these changes, which are attached to this letter, H.R. 3752 is ready for final consideration in and passage by the Committee on Commerce, Science, and Transportation Committee and the full Senate.

We, the undersigned leaders of this industry and supporting public policy organizations, therefore respectfully urge you to support this consensus amendment and send a perfected H.R. 3752 to the Senate floor this month for passage by unanimous consent so it can be reconsidered by the House and enacted into law before the November election.

Truly yours,

Jeff Greason, XCOR Aerospace; Elon Musk, Space X; Eric Anderson, Space Adventures; Bill Khourie, Oklahoma Space Industry Development Authority; Greg Allison, Chairman, Executive Committee National Space Society; John Carmack, Armadillo Aerospace; George French, Rocketplane, Ltd; Hon. Andrea Seastrand, California Space Authority; Brian Chase, Space Foundation.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PROMOTION OF COLONEL ROBERT T. HERBERT

Mr. REID. Mr. President, in our closing tonight, we are going to advance a number of military officers who have been reported out of the Armed Services Committee today.

It was with a special pleasure today that I spoke to Senator LEVIN and he told me that COL Robert T. Herbert had been reported out of the Armed Services Committee. Robert T. Herbert runs my Las Vegas office. Seventy-two percent of the people in the State of Nevada live in the Metropolitan Las Vegas area. He has an extremely important, responsible job for the people of the State of Nevada to make sure that what goes on in Nevada—especially on a Federal level—is something that he is aware of and I am aware of. He does a wonderful job. He is such a good person. Tonight, he will be no longer a Lieutenant Colonel but will become a full Colonel in the Nevada Army National Guard.

My friend, Bob Herbert, grew up as the son of a military man, retired Master Sergeant Robert W. Herbert. Bob, my employee, decided at an early age that he wanted to become a military pilot. So even before he graduated from high school, he joined the Army. Of course, he is well educated. He did graduate from high school. He now has a master's degree from George Washington University. He worked very hard to get that. He graduated from high school in Slinger, WI, and went to basic training, and then on to flight school. He was immediately thereafter assigned to Germany where he flew patrols along the borders between East and West Germany. This, as we all know, were the front lines of the Cold War.

After he was reassigned from Germany, Colonel Herbert completed his undergraduate work at Embry-Riddle Aeronautical University. He then went to test pilot school and became an Army test pilot.

As a test pilot, he flew helicopters which, as we all know, are so important not only in modern military missions but also for important jobs at home, such as fighting fires and the emergency transport of accident victims.

I just finished a telephone conversation with my friend Don Phillips—my friend of longstanding who lives in Lincoln County, NV, in Caliente actually, 145 miles from Las Vegas—and a helicopter took his wife Dorothy to a hospital in Las Vegas where she is very ill. Helicopters are important for all kinds of uses.

All these years, Bob has been moving around from place to place, and he wanted someplace to settle down. One of his fellow test pilots was a man named Randy Sayre who was from Fallon, NV. He told Colonel Herbert what hundreds of thousands of other people have discovered—that Nevada is a great place to live.

So when Bob got out of the Army, he moved to Reno and joined the Nevada Army National Guard. About that time, as a member of the Appropriations Defense Subcommittee, I learned that Bob Herbert was really good. He is someone whom I met. He had connections in the military circles in Nevada. I had heard about Bob, that he was not only good with military matters but also good with numbers.

At my request, he arranged to come to Washington and work in Washington as a fellow with the Brookings Institution. He was assigned to me. During that time, I had the privilege of pinning Bob with his Lieutenant Colonel insignia when he made that rank.

I also grew to depend on his judgment and advice, not just about military matters but about many other

issues. He was able to make decisions and had a lot of common sense.

When his fellowship was finished, he joined my staff here in Washington. He worked on military and veterans affairs, and transportation and technology issues. He came to work here in my Washington office while continuing to serve his Guard unit in Nevada.

As I mentioned earlier, he also earned a master's degree in public administration from George Washington University, my alma mater, working full time when he was doing this.

He worked for me 4 years back here, and I asked him if he would return to Nevada. He is not from Las Vegas. He is from northern Nevada, Reno, but being the good soldier he is, he agreed to do this.

He has done a tremendous job in this very demanding position, and during all this, he continues to fulfill all his duties in the Army National Guard.

Colonel Herbert now has 29 years of service, which you would never believe if you met him because he looks so young. He is the State Army Aviation Officer, meaning he is in charge of all the Army aviation guard in Nevada.

He has more than 7,000 hours as a pilot, and that time is split about half with helicopters and half with airplanes.

In the Nevada Army National Guard, they mostly fly helicopters. They have the OH–58, which is used in counterdrug trafficking and the Blackhawk, which is an air ambulance unit, and the Chinook, which is used for heavy lifting and is especially useful for fighting fires. They also have a KingAir airplane.

We all trust people who work for us. We trust their judgment, and we rely on their experience and skill, but I literally trust Bob Herbert with my life, as he has flown me to various places around the State of Nevada.

I am very proud of this man, the way he represents me, the State of Nevada, and the Senate. I know all Nevadans are proud not only of Colonel Herbert but all the brave men and women who are serving our State and our Nation today.

REMOVAL OF COSPONSORSHIP

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be removed as a cosponsor from amendment No. 3801 to the National Intelligence Reform Act of 2004, S. 2845. There has been a misunderstanding. That is the reason I ask that this request be granted.

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

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

Mr. BIDEN. Mr. President, tomorrow marks the beginning of October, celebrated nationally as National Domestic Violence Awareness Month. Earlier this week, this body unanimously passed a resolution that commemorates National Domestic Violence Awareness Month and renews the Senate's commitment to raise awareness about domestic violence and its devastating impact on families. While the Violence Against Women Act has been law for 10 years, none of us can afford to stop talking about domestic violence and encouraging victims to come forward and seek help.

Throughout the month, cities, organizations, businesses, religious institutions, and many others are organizing events to commemorate National Domestic Violence Awareness Month. For instance, Marie Claire magazine and Liz Claiborne Inc. have joined forces to create ''Its Time to Talk'' Day on October 14 to encourage greater public dialogue about domestic violence. Around the country, media personalities, governmental officials, domestic violence advocates, businesses and the public-at-large will be taking a moment—or more—to talk openly about this ''dirty little secret'' that affects nearly one in three women in this country.

The health care community has designated October 13 as Health Care Cares About Domestic Violence Day to raise awareness, and encourage doctors and nurses to screen for domestic violence while delivering routine and emergency care. On October 7, Marshall's will donate a percentage of that day's sales from all of its stores to organizations fighting domestic violence. Many communities, from Morrisville, VT to Lake Charles, LA, are holding candlelight vigils to remember and honor victims of domestic violence.

I cannot overestimate the importance of these local and national events that spotlight domestic violence and enlist the whole community to get involved. While much progress has been made at the local, State and Federal level to hold batterers accountable with serious consequences and treat victims with dignity, the scourge of domestic violence is far from over. Progress is not mission accomplished.

Tragic statistics reveal the stark truth that we cannot turn our attention away from fighting domestic violence. On average, each day more than three women are murdered by this husbands or boyfriends. Nearly one in three women experience at least one physical assault by a partner during her lifetime. In a recent poll, nine in ten women said that ending domestic violence was their number one priority. One in five adolescent girls becomes a victim of physical or sexual abuse, or both, in a dating relationship. In addition to the incalculable human costs of domestic violence, the Centers for Disease Control and Prevention recently found that violence against women costs our country in excess of $5.8 billion each year.

As resolute police chiefs retire, State task forces reorganize or committed district attorneys are replaced by newly elected leaders, we must ensure that the messages, protocols, policies, and dialogues fostered by the Violence Against Women Act become institutionalized across the country. We need to usher the Act into the 21st century and implement it with the next generation—recent police academy graduates who want to be trained on handling family violence, newly elected state legislators who want to update State laws on stalking, and the next generation of children who must be taught that abuse will not be tolerated.

Next year the Senate will have the opportunity to reauthorize the Violence Against Women Act which may make improvements to core programs, tighten criminal penalties and create new solutions to challenges facing battered women. Some of the initiatives suggested include school-based programs to treat the millions of children who witness domestic violence, home visitation programs to prevent family violence, targeted training and education about domestic violence for health professionals, and greater transitional housing resources. I look forward to working with my colleagues to craft a comprehensive and balanced Violence Against Women Act of 2005.

In the meantime, I thank the countless men and women working tirelessly in their hometowns to end domestic violence. As I have said before, these advocates, lawyers, service providers, judges, police, nurses, shelter directors and many more, are saving lives, one woman at a time. During National Domestic Violence Awareness Month, we have a chance to acknowledge their hard work, talk loud and clear about domestic violence and support the courageous women escaping violent homes.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I today 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 November 29, 2001 in Santa Rosa, CA, three teenagers were charged with battery, conspiracy and a hate crime for allegedly assaulting a student they believed was gay.

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. By passing this legislation and changing current law, we can change hearts and minds as well.

VOTE EXPLANATION

Mr. NELSON of Florida. Mr. President, I was necessarily absent from rollcall vote No. 193. On the motion to table amendment No. 3795, to S. 2845, I

would have voted ''aye.'' This would not change the outcome of the vote.

I was necessarily absent from rollcall vote No. 194. On the motion to table amendment No. 3802, to S. 2845, I would have noted ''no.'' This would not change the outcome of the vote.

HIS EXCELLENCY BADER OMAR AL-DAFA, AMBASSADOR OF QATAR TO THE UNITED STATES

Ms. STABENOW. Mr. President, I would like to take a moment to recognize His Excellency Bader Omar Al-Dafa, a distinguished diplomat, current Ambassador of the State of Qatar to the United States, and alumni of Western Michigan University. In 1975, Ambassador Al-Dafa, earned his bachelor's degree in political science from Western Michigan University, and I am pleased that on October 15, 2004, he will receive the prestigious Alumni Achievement Award in Political Science from Western Michigan University.

Ambassador Al-Dafa's long and distinguished career began in 1976 as a diplomatic attaché at the Ministry of Foreign Affairs, Doha. He has since served as ambassador in numerous posts, most recently as ambassador to the Russian Federation. Prior to this assignment, he served as non-resident ambassador to Finland, Latvia, Lithuania, and Estonia; ambassador to France and non-resident ambassador to Greece; ambassador to Egypt; and ambassador to Spain. While serving in Cairo, Ambassador Al-Dafa was his country's permanent representative to the Arab League. Prior to serving as ambassador to the United States, Ambassador Al-Dafa served as the director of European and American affairs at the Ministry of Foreign Affairs, Doha.

As ambassador to the United States, Bader Omar Al-Dafa's solid understanding of America and over 25 years of diplomatic experience strengthens the warm relationship between our two countries. His efforts to build relationships and foster understanding between America, Qatar and the Arab world through his work and his support for initiatives in the Arab-American community have earned him the respect and admiration of my colleagues in Congress and the citizens of Michigan.

I know my colleagues join me in congratulating Ambassador Al-Dafa for his distinguished service and the prestigious honor that Western Michigan University will confer on him. I extend to him my hopes for continued success and for an enduring relationship between our two countries. I also extend my best wishes to Ambassador Al-Dafa's wife, Awatef Mohamed Al-Dafa, and their three children.

A REAL THREAT TO SATELLITE TELEVISION SERVICE

Mr. LEAHY. Mr. President, in 1998 and 1999 over 2 million families were faced with the prospect of losing the ability to receive one or more of their satellite television network stations. Back then, Congress acted and not only protected access to those stations but also expanded consumer opportunities to receive more programming options.

This time around the story may not have such a happy ending. As we near the end of the session, I grow more concerned that Congress will not have time to pass a reauthorization of the Satellite Home Viewer Act. This is especially disappointing because many members of the other body and many Senators have worked diligently to craft legislative language that would be a boon to public television, the satellite industry, the movie, music and television industries, and to satellite dish owners throughout America.

Indeed, families who own satellite dishes may end up being the big losers if provisions of that act are not extended. Many midwestern and Rocky Mountain States have vast areas where satellite dish owners receive imported network stations such as ABC, NBC, CBS or Fox. Thousands of these families do not have any other choices. They do not have access to TV stations over-the-air because of mountain terrain or distance from the broadcast towers. They do not have access to cable because of the rough terrain or the lack of population density which makes it economically impossible for cable companies to invest. Without access to network stations via satellite, over-the-air, or cable those families will no longer be able to receive national news programming or other network TV programming.

If Congress does not reauthorize provisions of current law by December 31, 2004, hundreds of thousands of households will lose satellite access to network TV stations. Since information about subscribers is proprietary it is difficult for me to tell you exactly how many families will be affected by this, but I assure you it is not a small number.

The Senate Judiciary Committee got its job done in June. We reported a great bill out of Committee without a single amendment and without a single nay vote. That bill does far more than just protect satellite dish owners from losing signals. At the time I pointed out that the new satellite bill ''protects subscribers in every State, expands viewing choices for most dish owners, promotes access to local programming, and increases direct, head-to-head, competition between cable and satellite providers.''

I continued by saying that, ''easily, this bill will benefit 21 million satellite television dish owners throughout the nation, and I am happy to note that over 85,000 of those subscribers are in Vermont.''

The Senate and House Judiciary Committee-reported bills go far beyond protecting what current subscribers receive. The bills allow additional programming via satellite through adoption of the so-call ''significantly viewed'' test now used for cable, but not satellite subscribers. That test means that, in general, if a person in a cable service area that historically received over-the-air TV reception from ''nearby'' stations outside that area, those cable operators could offer those station signals in that person's cable service area. In other words, if you were in an area in which most families in the past had received TV signals using a regular roof-top antenna then you could be offered that same signal TV via cable. By having similar rules, satellite carriers will be able to directly compete with cable providers who already operate under the significantly viewed test. This gives home dish owners more choices of programming.

In the past, Congress got the job done. Congress worked well together in 1998 and 1999 when we developed a major satellite law that transformed the industry by allowing local television stations to be carried by satellite and beamed back down to the local communities served by those stations. This marked the first time that thousands of TV owners were able to get the full complement of local network stations. In 1997 we found a way to avoid cutoffs of satellite TV service to millions of homes and to protect the local affiliate broadcast system. The following year we forged an alliance behind a strong satellite bill to permit local stations to be offered by satellite, thus increasing competition between cable and satellite providers.

We also worked with the Public Broadcasting System so they could offer a national feed as they transitioned to having their local programming beamed up to satellites and then beamed back down to much larger audiences.

Because of those efforts, in Vermont and most other States, dish owners are able to watch their local stations instead of getting signals from distant stations. Such a service allows television watchers to be more easily connected to their communities as well as providing access to necessary emergency signals, news and broadcasts.

I hope we are able to work together to finish this important satellite television bill in the few remaining days of this Congress.

A SOLEMN ANNIVERSARY

Mr. LEVIN. Mr. President, this fall marks a solemn 2nd anniversary of the sniper attacks which terrorized the Washington, DC area and the country for 3 weeks in 2002. In October of that year, John Allen Mohammad, who was sentenced to death, and John Lee Malvo who was sentenced to life imprisonment, indiscriminately shot 13 innocent people, killing ten.

In a settlement that marked victory for the 2002 sniper shooting victims, Bushmaster Firearms, manufacturer of the XM–15 assault rifle used in the attacks, agreed to pay $550,000 in damages for negligence leading to criminal

violence in connection with the shooting spree.

According to reports, Bushmaster continued to sell firearms, including the XM–15 assault rifle used in the sniper shootings, to Bull's Eye Shooter Supply in Tacoma, WA, even after several ATF audits documented the dealer's inability to responsibly account for its inventory of weapons. Reports indicate that 238 guns had gone missing from Bull's Eye's inventory and over 50 had been traced to criminal acts since 1997. As part of the settlement with victims, Bull's Eye has agreed to pay $2 million for its negligence in failing to account for the assault rifle that ended up in the hands of the snipers.

Earlier this year, I voted with 89 of my colleagues to defeat S. 1805, the Protection of Lawful Commerce in Arms Act. That bill would have weakened the legal rights of gun violence victims by terminating a wide range of pending and prospective civil cases against members of the gun industry. The victims of the sniper shootings would have lost their ability to sue Bushmaster Firearms and Bull's Eye Shooter Supply had S. 1805 become law.

For the families and victims impacted by the 2002 sniper attacks, no amount of money will replace their loss and suffering. However, we should continue to pursue sensible gun safety legislation, including reinstating the expired assault weapons ban, to help prevent future gun crimes and improve the security of communities across our Nation.

STUDENT LOAN ABUSE PREVENTION ACT

Mr. DURBIN. Mr. President, I rise to speak on behalf of the Student Loan Abuse Prevention Act. I am pleased to join Senator MURRAY as a cosponsor of the measure. This bill would amend the Higher Education Act of 1965 to end the siphoning of taxpayer dollars to pay exorbitant interest rates on student loans.

A special class of student loans, financed by tax-exempt bonds issued before October 1993, has become a goldmine for the companies that hold them. In the 1980s, Congress created the Guaranteed Student Loan Program, now known as the Federal Family Education Loan Program, or FFELP, to keep college loans accessible and affordable for students. Facing high interest rates, the program guaranteed lenders an interest rate of 9.5 percent to entice them to join the program.

Congress intended to end the special treatment of tax-exempt bonds with the Omnibus Budget Reconciliation Act of 1993. But the way in which the grandfather clause for pre-existing bonds was drafted has had the opposite effect. Two loopholes have allowed student loan companies to profit widely as they recycle old tax exempt bonds to produce new subsidies. The first loophole has extended the life of these bonds. If the lender refinances an old bond, it is still treated as an old bond but with a longer life. The second loophole allows for the volume of loans receiving this excessive subsidy to grow. Even if a tax-exempt bond finances a loan only temporarily, that loan is permanently treated as if it was financed by a tax-exempt bond.

The serial refinancing of loans is an accounting trick that ratchets up the subsidies the Government must pay. In fiscal year 2001, the 9.5 percent guarantee cost American taxpayers approximately $200 million. Now GAO and others have estimated that the cost is nearly five times greater this year. That is a billion dollars in unnecessary subsidies. This windfall has a secondary effect. U.S. News & World Report credits this ''obscure loophole in federal law'' with giving private lenders the financial latitude to lure colleges and universities away from the direct loan process.

Old loans are very much alive and multiplying in plain sight of Federal regulators. Lenders use the 9.5 percent bond funds to finance a set of loans for as little as one day and that new loan earns a 9.5-percent guaranteed return for life. Nelnet, the Nebraska based National Education Loan Network, is the lender that has exploited 9.5 percent loans more aggressively than any other, increasing its 9.5 percent holdings nearly tenfold in the last 18 months.

These subsidies have already consumed a disproportionate share of the Nation's financial dollars. Although loans carrying the 9.5 percent subsidy rate account for no more than 8 percent of the FFEL Program, they have soaked up 78 percent of all subsidies paid to lenders under the program in the current fiscal year. We need to halt and reverse the explosive growth of 9.5-percent loans. Each day of delay allows more loans to be converted to 9.5-percent loans, enriching lenders and undermining the direct loan program.

I urge my colleagues to support the bill to end this outdated subsidy.

BUTLER UNIVERSITY POLICE OFFICER JAMES L. DAVIS

Mr. BAYH. Mr. President, I rise today to pay tribute to and honor the life of James Davis, a Butler University Police Officer who was killed in the line of duty on September 24, 2004. Officer Davis was shot down by a gunman while investigating reports of a suspicious person inside Hinkle Fieldhouse, the campus arena.

On Friday morning, Officer Davis left his patrol car to seek out a man who had refused to exit Hinkle Fieldhouse where students were practicing basketball. A member of Butler's police force since January 2003, Officer Davis, a 31-year-old husband and father of three had his entire life before him when he confronted the suspect, a selfless act that would cost him his life.

Officer Davis graduated from Indiana University in 1995 with a double major in criminal justice and Afro-American studies before entering his career of service. After retiring from the Army as a military policeman, Officer Davis spent a year supervising juvenile offenders as a youth service officer for the Indiana Department of Transportation. He also worked as a drill instructor for troubled youth in a program called Project Impact.

Above all, Officer Davis was a devoted family man who relished his time with loved ones. He dedicated his life to the noblest of causes; his family, his job and keeping others safe. Officer Davis leaves behind his wife, Veleeda and his three young children, Josiah, 8, Jarren, 3, and Jaedyn, who will be two in December. May his children grow up knowing that their father was a brave, hard-working and loving man.

In the wake of his death, friends, neighbors and fellow officers came together to remember and celebrate the life of Officer Davis. Butler Police Chief David Selby described Officer Davis to the Indianapolis Star as ''an outstanding officer . . . and a very good friend to all of us,'' adding that he would be missed by many. Those who knew him well recall Officer Davis' dedication to his job and his efforts to help troubled teens. A friend remembered Officer Davis' strong belief that there were ''no bad children, just children who made bad decisions or came from a bad environment.''

Throughout his career, Officer Davis distinguished himself as a policeman who genuinely cared about the students he was working to protect. Students recall him as someone who could be counted on for a safe ride home from class if he spotted them walking alone in the dark and by fellow officers as a devoted member of their team. His brave and caring actions leave behind an unforgettable impression of the kind of man he was.

It is my sad duty to enter the name of James L. Davis into the United States CONGRESSIONAL RECORD. As Officer Davis rests with God in eternal peace, let us never forget the courage and sacrifice he displayed when he laid down his life on September 24, 2004.

ADDITIONAL STATEMENTS

GEORGE WASHINGTON UNIVERSITY

• Mr. CONRAD. Mr. President, I would like to recognize and congratulate both the George Washington University and its Graduate School of Education and Human Development on achieving centennial milestones this month. George Washington University, which is 183 years old and was created by an act of Congress in 1821, commemorates 100 years of its name change from Columbian University to the George Washington University.

As an alumnus of GW, I am honored to offer congratulations for this internationally recognized institution of higher education.

The university's Grade School of Education and Human Development celebrates 100 years of providing professional development.

The Graduate School of Education and Human Development's partnerships on major national projects have impacted educational reform, increased technological opportunities, and continues to assist and impact the quality of life for people in the United States.

Over the past century, students and alumni of the university have participated in groundbreaking research, championed political causes, and contributed to the community of Washington, DC, and the American people. Over the past 100 years, several high-profile graduates from the fields of government, business, education, and law have obtained degrees from GW.

GW has awarded honorary degrees to eight U.S. Presidents, which included Theodore Roosevelt, Herbert Hoover, Warren Harding, Calvin Coolidge, Harry Truman, John F. Kennedy, Dwight Eisenhower, and Ronald Reagan; eight Supreme Court Justices; and Alexander Graham Bell, just to name a few.

In closing, I would like to congratulate the George Washington University president, Stephen Joel Trachtenberg, and the Graduate School of Education and Human Development dean, Mary Hartwood Futrell. I know if President George Washington was here today, he would be proud that his dream of a national university has not only been realized, but that the university bearing his name will continue to enrich the lives of students from around the globe for centuries to come.●

KATHERINE GOTTLIEB

● Ms. MURKOWSKI. Mr. President, earlier this week the John D. and Catherine T. MacArthur Foundation selected an outstanding Alaskan, Katherine Gottlieb, as one of 23 distinguished Americans who have been designated MacArthur Foundation Fellows for 2004. The MacArthur Fellowship is better known as the ''Genius Award'' and that term aptly describes my friend, Katherine Gottlieb.

Katherine, who is of Aleut and Filipino descent, is the Chief Executive Officer of Southcentral Foundation, which provides primary health care services to some 40,000 Alaska Natives in Anchorage and Southcentral Alaska. Southcentral Foundation is also a partner in the management and operation of the cutting edge Alaska Native Medical Center.

Notwithstanding her lofty title, Katherine is no ''corner office'' executive. Her first job at Southcentral Foundation's headquarters in Anchorage was receptionist. She took the job while undertaking undergraduate work at Alaska Pacific University. She worked her way up the ranks at Southcentral Foundation and went on to earn an MBA at Alaska Pacific University.

But Katherine didn't go to school in Anchorage to prepare for a career in healthcare. By the time she arrived in Anchorage, she had already demonstrated her commitment to the wellbeing of her Native people. Katherine began her healthcare career as a community health aide in her hometown of Seldovia, AK, a community of about 306 people which is not connected by road to the rest of Alaska, much less the continental United States.

In the roadless villages of rural Alaska, community health aides provide the link between the patient and medical resources available in the larger communities. Alaska's Community Health Aides are the front line health providers in our last frontier.

Perhaps it was this formative experience that led Katherine to champion the implementation of a patient centered healthcare delivery model at Southcentral Foundation. The MacArthur Foundation does not officially explain which qualities led them to select a particular nominee as a fellow. They explain that the fellowship is an investment in a person's originality, insight and potential.

But their announcement offers some clues about what led the foundation to select Katherine. The announcement observes that Katherine, by championing this patient centered delivery model, has transformed health care and related health programs in her Alaska Native community.

On February 10, 2003, Dr. Douglas Eby, Southcentral Foundation's Vice President for Medical Services, accepted the Indian Health Service Physician Leader of the Year Award. In his acceptance address he described the genesis of the patient centered delivery system as follows:

> The Native community and Southcentral Foundation asked for a primary care system that was truly centered on the needs and wants of the patient and family, that was built on the foundational strengths and values already present in the Native community, that fully partnered with the patient and family, providing them with the information and tools they needed in their journey toward wellness, that provided optimal quality and access to every single Alaska Native and American Indian eligible for services . . . What we did was to take the best pieces of programs we could find nationally and internationally that supported the vision of the Anchorage Native community and Southcentral Foundation leadership and created our own system of care.
>
> This system allows over 40,000 individuals and families to choose their primary care provider, enter into a long-term trusting relationship with them, have same day access for any reason, and fully partner in their journey toward wellness. It has resulted in these primary care patients decreasing their daytime use of the Urgent Care Center and Emergency Room by about 50%, use of specialty clinics by over 30% and total primary care visits by about 20%. Quality of care measures such as immunization rates, cancer screening rates, depression screening/treatment, chronic pain screening/treatment, etc. have all maintained or significantly improved. Patient satisfaction measures have been very positive. Support systems such as health education, nutrition, and social services have been fully integrated into the system.

Dr. Eby pointed out in that acceptance address that the patient centered health care model would not have been implemented without the visionary leadership of Katherine Gottlieb. In Dr. Eby's words, ''This journey was going to happen. Katherine Gottlieb would accept nothing less.''

The patient centered health care initiative is one of Katherine's many contributions. The MacArthur Foundation also took note of Katherine's creation of the Family Wellness Warriors Initiative, which seeks to revitalize the traditional role of Alaska Native men as protectors and providers, making them less inclined to fall into a pattern of domestic abuse.

They acknowledged Katherine's leadership with respect to the Dena A Coy Residential Treatment Center, which is the first residential facility for pregnant women in the United States focusing on prevention of fetal alcohol disorders and Pathway Home, a transitional living center which addresses the challenges of substance abuse, violence and suicide among Native teenagers.

These are just a few of the 75 medical, behavioral health and community services that moved the MacArthur Foundation to conclude, ''Under Katherine Gottlieb's leadership, the Southcentral Foundation network has demonstrated that high-quality health care and effective preventive services are possible, even in communities facing obstacles of poverty and geographic isolation.''

Alaska has known for many years what a treasure we have in Katherine Gottlieb. Now the Nation knows too. But Katherine is not one to rest on her laurels. An innovator and an entrepreneur, I have no doubt that this recognition will spur Katherine to even greater heights. But one thing is for sure. Katherine Gottlieb will never forget where she came from. She is anchored by the strength of her faith and her values and grounded by her Native heritage.

I join with all Alaskans in congratulating Katherine Gottlieb on this extraordinary accomplishment.●

MESSAGES FROM THE HOUSE

At 9:39 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House disagree to the amendment of the Senate to the bill (H.R. 4520) entitled ''An Act to amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high technology businesses and workers more competitive and productive both at home and abroad'', and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members of the conference on the part of the House:

From the Committee on Ways and Means, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. THOMAS, CRANE, MCCRERY, RANGEL, and LEVIN.

From the Committee on Agriculture, for consideration of title VIII of the House bill, and subtitle B of title XI of the Senate amendment, and modifications committed to conference: Messrs. GOODLATTE, BOEHNER, and STENHOLM.

From the Committee on Education and the Workforce, for consideration of sections 489, 490, 616, 701, and 719 of the Senate amendment, and modifications committed to conference: Messrs. BOEHNER, SAM JOHNSON of Texas, and GEORGE MILLER of California.

From the Committee on Energy and Commerce, for consideration of section 662 and subtitle A of title XI of the Senate amendment, and modifications committed to conference: Messrs. BARTON of Texas, BURR, and WAXMAN.

From the Committee on the Judiciary, for consideration of sections 422, 442, 1111, 1151, and 1161 of the Senate amendment, and modifications committed to conference: Messrs. SENSENBRENNER, SMITH of Texas, and CONYERS.

For consideration of the House bill and Senate amendment, and modifications committed to conference: Mr. DELAY.

ENROLLED JOINT RESOLUTION AND BILL SIGNED

At 12:34 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

H.J. Res. 107. Joint resolution making continuing appropriations for the fiscal year 2005, and for other purposes.

H.R. 4654. An act to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2007, and for other purposes.

The enrolled bill and joint resolution were signed subsequently by the President pro tempore (Mr. STEVENS).

At 12:51 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that pursuant to the request of September 20, 2004, the House returned the act (H.R. 4567) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes to the Senate.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1402. An act to designate the United States courthouse located at the corner of Seventh Street and East Jackson Street in Brownsville, Texas, as the ''Reynoldo G. Garza and Filemon B. Vela United States Courthouse''.

H.R. 3124. An act to designate the facility of the United States Geological Survey and the United States Bureau of Reclamation located at 230 Collins Road, Boise, Idaho, as the ''F.H. Newell Building''.

H.R. 3193. An act to restore second amendment rights in the District of Columbia.

H.R. 4731. An act to amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program.

H.R. 4768. An act to authorize the Secretary of Veterans Affairs to enter into certain major medical facility leases, to authorize that Secretary to transfer real property subject to certain limitations, otherwise to improve management of medical facilities of the Department of Veterans Affairs, and for other purposes.

H.R. 5105. An act to authorize the Board of Regents of the Smithsonian Institution to carry out construction and related activities in support of the collaborative Very Energetic Radiation Imaging Telescope Array System (VERITAS) project on Kitt Peak near Tucson, Arizona.

H.R. 5149. An act to reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2005, and for other purposes.

At 2:29 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 bill, in which it requests the concurrence of the Senate:

H.R. 5183. An act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

At 6:36 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 bill, in which it requests the concurrence of the Senate:

H.R. 4231. An act to provide for a pilot program in the Department of Veterans Affairs to improve recruitment and retention of nurses, and for other purposes.

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

H. Con. Res. 501. Concurrent resolution honoring the life and work of Duke Ellington, recognizing the 30th anniversary of the Duke Ellington School of the Arts, and supporting the annual Duke Ellington Jazz Festival.

The message further announced that pursuant to section 1012(c)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 242b note), the Minority Leader appoints Mr. Thomas M. Priselac of Los Angeles, California, to the Commission on Systemic Interoperability.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 5149. An act to reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2005, and for other purposes.

H.R. 5183. An act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2866. A bill to amend the Farm Security and Rural Investment Act of 2002 to clarify the authority of the Secretary of Agriculture and the Commodity Credit Corporation to enter into memorandums of understanding with a State regarding the collection of approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans.

The following resolution was discharged from the Committee on Rules and Administration, and ordered placed on the calendar:

S. Res. 360. Resolution expressing the sense of the Senate that legislative information shall be publicly available through the Internet.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 4596. An act to amend Public Law 97–435 to extend the authorization for the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University until December 31, 2009.

H.R. 4606. An act to authorize the Secretary of the Interior, acting through the Bureau of Reclamation and in coordination with other Federal, State, and local government agencies, to participate in the funding and implementation of a balanced, long-term groundwater remediation program in California, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 424. A resolution designating October 2004 as ''Protecting Older Americans From Fraud Month''.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2195. A bill to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors.

By Mr. CAMPBELL, from the Committee on Indian Affairs, with amendments:

S. 2843. A bill to make technical corrections to laws relating to Native Americans, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

*Peter Cyril Wyche Flory, of Virginia, to be an Assistant Secretary of Defense.

Air Force nomination of Lt. Gen. Bruce A. Carlson.

Air Force nomination of Maj. Gen. Dennis R. Larsen.

Air Force nomination of Maj. Gen. William M. Fraser III.

Air Force nomination of Lt. Gen. Carrol H. Chandler.

Air Force nomination of Maj. Gen. Stephen G. Wood.

Air Force nomination of Colonel Robert A. Knauff.

Air Force nomination of Col. Dana H. Born.

Air Force nomination of Col. Marshall K. Sabol.

Army nomination of Lt. Gen. Benjamin S. Griffin.

Army nomination of Maj. Gen. Kevin C. Kiley.

Army nomination of Lt. Gen. James J. Lovelace, Jr.

Army nomination of Maj. Gen. James M. Dubik.

Army nomination of Maj. Gen. Robert T. Dail.

Army nomination of Maj. Gen. David F. Melcher.

Army nomination of Maj. Gen. R. Steven Whitcomb.

Army nomination of Lt. Gen. David D. McKiernan.

Army nominations beginning Brig. Gen. James E. Archer and ending Col. Gregory A. Schumacher, which nominations were received by the Senate and appeared in the Congressional Record on September 7, 2004.

Army nomination of Colonel Karl R. Horst.

Army nomination of Col. Dana D. Batey.

Army nomination of Col. Michael B. Cates.

Marine Corps nomination of Maj. Gen. James N. Mattis.

Marine Corps nomination of Lt. Gen. Edward Hanlon, Jr.

Navy nomination of Vice Adm. Kirkland H. Donald.

Navy nomination of Rear Adm. Charles L. Munns.

Navy nomination of Rear Adm. James K. Moran.

Navy nomination of Rear Adm. Joseph A. Sestak, Jr.

Navy nomination of Rear Adm. Mark P. Fitzgerald.

Navy nomination of Vice Adm. Gary Roughead.

Navy nomination of Rear Adm. Lewis W. Crenshaw, Jr.

Navy nomination of Capt. Bruce E. MacDonald.

Navy nomination of Rear Adm. James E. McPherson.

Navy nomination of Capt. Norton C. Joerg.

Navy nomination beginning Captain Gerald R. Beaman and ending Captain Richard B. Wren, which nominations were received by the Senate and appeared in the Congressional Record on March 23, 2004.

Navy nomination of Capt. Christine S. Hunter.

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Air Force nomination of Marjorie B. Medina.

Air Force nomination of Henry Lee Einsel, Jr.

Air Force nomination of Robert L. Munson.

Air Force nomination of James Miller.

Air Force nominations beginning Michael M. Harting and ending Joel C. Wright, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Air Force nomination of Dana J. Nelson.

Air Force nomination of William E. Lindsey.

Air Force nomination of Martin S. Fass.

Air Force nomination of Frank A. Posey.

Air Force nomination of Tracey R. *Rockenbach.

Air Force nominations beginning Shannon D. *Hailes and ending Michael F. Lamb, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Air Force nominations beginning Tommy D. *Bouie and ending Jennifer L. *Luce, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Air Force nominations beginning Noel D. Montgomery and ending Alexander V. *Servino, which nominations were received by the Senate and appeared in the Congressional Record on September 13, 2004.

Air Force nominations beginning Kathleen Harrington and ending Paul E. Pirog, which nominations were received by the Senate and appeared in the Congressional Record on September 21, 2004.

Air Force nomination of George J. Krakie.

Air Force nominations beginning David A. Lujan and ending Michael C. Schramm, which nominations were received by the Senate and appeared in the Congressional Record on September 21, 2004.

Air Force nominations beginning Douglas A. Haberman and ending Matthew S. Warner, which nominations were received by the Senate and appeared in the Congressional Record on September 21, 2004.

Air Force nomination of Martin J. Towey.

Army nominations beginning Juan H. Banks and ending Lisa N. Yarbrough, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Army nominations beginning Michael J. Blachura and ending Ronald P. Welch, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nominations beginning Scott A. Ayres and ending Gerald I. Walter, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nominations beginning Mark A. Cosgrove and ending Ronnie J. Westman, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nominations beginning Steven H. Bullock and ending John M. Stang, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nominations beginning Michael N. Albertson and ending William S. Woessner, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nominations beginning John W. Amberg II and ending Richaed G. Zoller, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nominations beginning Gilbert Adams and ending Scott W. Zurschmit, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nominations beginning Celethia M. Abner and ending Cherub I. *Williamson, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nominations beginning Thomas L. *Adams, Jr. and ending Kathryn M. *Zambonicutter, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nomination of Raymond L. Naworol.

Army nomination of Keith A. George.

Army nomination of Curtis L. Beck.

Army nomination of Rex A. Harrison.

Army nominations beginning Kevin Hammond and ending Michael Knippel, which nominations were received by the Senate and appeared in the Congressional Record on September 13, 2004.

Army nominations beginning Jaime B. * Anderson and ending Joseph G. * Williamson, which nominations were received by the Senate and appeared in the Congressional Record on September 13, 2004.

Army nominations beginning James R. Andrews and ending Shanda M. Zugner, which nominations were received by the Senate and appeared in the Congressional Record on September 13, 2004.

Army nominations beginning Michael C. Aaron and ending X4130, which nominations were received by the Senate and appeared in the Congressional Record on September 13, 2004.

Army nominations beginning Christopher W. * Abbott and ending X3181, which nominations were by the Senate and appeared in the Congressional Record on September 13, 2004.

Army nomination of John R. Peloquin.

Marine Corps nomination of John T. Brower.

Marine Corps nomination of John M. Sessoms.

Marine Corps nomination of Randy O. Carter.

Navy nomination beginning Andrew M Archila and ending Richard G Zeber, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Navy nominations beginning Ray A Bailey and ending David A Stroud, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Navy nominations beginning Raymond Alexander and ending Mark A Ziegler, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Navy nominations beginning Steven W Ashton and ending Jason D Zeda, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Navy nominations beginning Tammera L Ackiss and ending Kathleen L Yuhas, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Navy nominations beginning Ik J Ahn and ending Sara B Zimmer, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Navy nominations beginning Kerry L Abramson and ending Andru E Wall, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Navy nomination of Arthur B. Short.

Navy nomination of Scott Drayton.

Navy nomination Cipriano Pineda, Jr.

Navy nominations beginning Michael P Amstutz, Jr. and ending James J Wojtowicz, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Jerry L Alexander and ending Lori C Works, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Patrick L Bennett and ending Ernest C Woodward, Jr., which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Claude W Arnold, Jr. and ending Steven M Wendlin, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Christopher L Bowen and ending William L Wood, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Julie M Alfieri and ending Donna I Yacovoni, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Marianie O Balolong and ending Karen M Wingeart, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Thomas G Alford and ending Kendal T Zamzow, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Ryan D Aaron and ending David G Zook, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Glenn A Jett and ending Matthew Williams, which nominations were received by the Senate and appeared in the Congressional Record on September 13, 2004.

Navy nominations beginning Richard S Adcook and ending Jeffrey G Zeller, which nominations were received by the Senate and appeared in the Congressional Record on September 13, 2004.

Navy nomination of Daniel C Ritenburg.

Navy nomination of Dwayne Banks.

Navy nominations beginning Bill R Davis and ending William H. Speaks, which nominations were received by the Senate and appeared in the Congressional Record on September 21, 2004.

By Mr. HATCH for the Committee on the Judiciary.

Raymond L. Finch, of the Virgin Islands, to be Judge for the District Court of the Virgin Islands for a term of ten years.

Micaela Alvarez, of Texas to be United States District Judge for Southern District of Texas.

Keith Starrett, of Mississippi, to be United States District Judge for the Southern District of Mississippi.

Lisa Godbey Wood, of Georgia, to be United States District Attorney for the Southern District of Georgia for the term of four years.

David E. Nahmias, of Georgia, to be United States Attorney for the Northern District of Georgia for the term of four years.

Richard B. Roper III, of Texas, to be United States Attorney for the Northern District of Texas for the term of four years.

Ricardo H. Hinojosa, of Texas, to be Chair of the United States Sentencing Commission.

Michael O'Neill, of Maryland, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2009.

Ruben Castillo, of Illinois, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2009.

William Sanchez, of Florida, to be Special Counsel of Immigration-Related Unfair Practices for a term of four years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations with an asterisk were reported with the recommendation that they be confirmed.)

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. HAGEL:

S. 2867. A bill to amend title 10, United States Code, to increase the amount of the military death gratuity from $12,000 to $50,000; to the Committee on Armed Services.

By Mr. SARBANES (for himself, Mr. CORZINE, Mrs. CLINTON, Mr. AKAKA, Mr. BINGAMAN, Mr. SCHUMER, Mr. DODD, Mrs. BOXER, and Ms. MIKULSKI):

S. 2868. A bill to amend the Electronic Fund Transfer Act to extend certain consumer protections to international remittance transfers of funds originating in the United States, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. TALENT:

S. 2869. A bill to respond to the illegal production, distribution, and use of methamphetamines in the United States, and for other purposes; to the Committee on the Judiciary.

By Ms. SNOWE:

S. 2870. A bill to authorize the Secretary of Transportation to issue certificates of documentation with appropriate endorsements for employment in the coastwise trade for the vessels LOBSTAR and SARA BELLE; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAHAM of South Carolina (for himself and Mr. CORNYN):

S. 2871. A bill to provide for enhanced criminal penalties for crimes related to slavery and alien smuggling; to the Committee on the Judiciary.

By Mr. BUNNING (for himself and Mr. NELSON of Nebraska):

S. 2872. A bill to amend the Internal Revenue Code of 1986 to provide a credit to certain agriculture-related businesses for the cost of protecting certain chemicals; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2873. A bill to extend the authority of the United States District Court for the Southern District of Iowa to hold court in Rock Island, Illinois; to the Committee on the Judiciary.

By Mr. BIDEN:

S. 2874. A bill to authorize appropriations for international broadcasting operations and capital improvements, and for other purposes; to the Committee on Foreign Relations.

By Mr. BOND:

S. 2875. A bill to extend trade benefits to certain tents imported into the United States; to the Committee on Finance.

By Mrs. HUTCHISON (for herself, Mr. BAYH, and Mr. KENNEDY):

S. 2876. A bill to amend title XVIII of the Social Security Act to eliminate reductions in payments to hospitals for the indirect costs of medical education; to the Committee on Finance.

By Mr. GREGG (for himself, Mr. BOND, and Mr. GRAHAM of South Carolina):

S. 2877. A bill to reduce the special allowance for loans from the proceeds of tax exempt issues, and to provide additional loan forgiveness for teachers who teach mathematics, science, or special education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CAMPBELL:

S. 2878. A bill to amend the Hoopa-Yurok Settlement Act to provide for the acquisition of land for the Yurok Reservation and an increase in economic development beneficial to the Hoopa Valley Tribe and the Yurok Tribe, and for other purposes; to the Committee on Indian Affairs.

By Mr. CAMPBELL:

S. 2879. A bill to restore recognition to the Winnemem Wintu Indian Tribe of California; to the Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LAUTENBERG:

S. Con. Res. 139. A concurrent resolution directing the Architect of the Capitol to establish a temporary exhibit in the rotunda of the Capitol to honor the memory of members of the United States Armed Forces who have lost their lives in Operation Iraqi Freedom and Operation Enduring Freedom; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 540

At the request of Mr. INHOFE, the names of the Senator from North Dakota (Mr. CONRAD), the Senator from Nevada (Mr. ENSIGN), and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 540, a bill to authorize the presentation of gold medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th Century in recognition of the service of those Native Americans to the United States.

S. 641

At the request of Mrs. LINCOLN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 641, a bill to amend title 10, United States Code, to support the Federal Excess Personal Property program of the Forest Service by making it a priority of the Department of Defense to transfer to the Forest Service excess personal property of the Department of Defense that is suitable to be loaned to rural fire departments.

S. 847

At the request of Mr. SMITH, the name of the Senator from North Carolina (Mr. EDWARDS) 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.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Maryland (Ms. MIKULSKI) 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. 1635

At the request of Mrs. FEINSTEIN, her name was added as a cosponsor of S. 1635, a bill to amend the Immigration and Nationality Act to ensure the integrity of the L–1 visa for intracompany transferees.

At the request of Mr. GRAHAM of South Carolina, his name was added as a cosponsor of S. 1635, supra.

S. 1831

At the request of Mr. SMITH, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 1831, a bill to amend the Internal Revenue Code of 1986 to expand income averaging to include the trade or business of fishing.

S. 1888

At the request of Mr. SPECTER, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1888, a bill to halt Saudi support for institutions that fund, train, incite, encourage, or in any other way aid and abet terrorism, and to secure full Saudi cooperation in the investigation of terrorist incidents.

S. 2094

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 2094, a bill to protect United States workers from competition of foreign workforces for performance of Federal and State services contracts.

S. 2155

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 2155, a bill to amend the Internal Revenue Code of 1986 to provide for a manufacturer's jobs credit, and for other purposes.

S. 2302

At the request of Mr. CONRAD, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2302, a bill to improve access to physicians in medically underserved areas.

S. 2336

At the request of Mr. REID, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2336, a bill to expand access to preventive health care services and education programs that help reduce unintended pregnancy, reduce infection with sexually transmitted disease, and reduce the number of abortions.

S. 2395

At the request of Mr. CONRAD, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Vermont (Mr. JEFFORDS) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 2395, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes.

S. 2435

At the request of Mr. LEAHY, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 2435, a bill to permit Inspectors General to authorize staff to provide assistance to the National Center for Missing and Exploited Children, and for other purposes.

S. 2437

At the request of Mr. ENSIGN, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 2437, a bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes.

S. 2553

At the request of Mr. DODD, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2553, a bill to amend title XVIII of the Social Security Act to provide for coverage of screening ultrasound for abdominal aortic aneurysms under part B of the medicare program.

S. 2568

At the request of Mr. BIDEN, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Kentucky (Mr. BUNNING), the Senator from North Carolina (Mr. EDWARDS) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 2568, a bill to require the Secretary of the Treasury to mint coins in commemoration of the tercentenary of the birth of Benjamin Franklin, and for other purposes.

S. 2659

At the request of Ms. COLLINS, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 2659, a bill to extend the temporary increase in payments under the medicare program for home health services furnished in a rural area.

S. 2759

At the request of Mr. ROCKEFELLER, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Indiana (Mr. BAYH), the Senator from Washington (Ms. CANTWELL), the Senator from Delaware (Mr. CARPER), the Senator from New York (Mrs. CLINTON), the Senator from Mississippi (Mr. COCHRAN), the Senator from Illinois (Mr. DURBIN), the Senator from California (Mrs. FEINSTEIN), the Senator from Florida (Mr. GRAHAM), the Senator from Iowa (Mr. HARKIN), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Washington (Mrs. MURRAY), the Senator from Nebraska (Mr. NELSON), the Senator from Arkansas (Mr. PRYOR), the Senator from New York (Mr. SCHUMER), the Senator from Michigan (Ms. STABENOW) and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of S. 2759, a bill to amend title XXI of the Social Security Act to modify the rules relating to the availability and method of redistribution of unexpended SCHIP allotments, and for other purposes.

S. 2770

At the request of Mr. DASCHLE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2770, a bill to establish a National Commission on American Indian Trust Holdings.

S. 2789

At the request of Mr. BROWNBACK, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2789, a bill to reauthorize the grant program of the Department of Justice for reentry of offenders into the community, to establish a task force on Federal programs and activities relating to the reentry of offenders into the community, and for other purposes.

S. 2805

At the request of Ms. CANTWELL, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2805, a bill to extend the authorization for the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University.

S. 2834

At the request of Ms. SNOWE, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 2834, a bill to enhance compliance assistance for small business.

S. 2845

At the request of Mr. ROCKEFELLER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor 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.

S. 2866

At the request of Mr. DASCHLE, his name was added as a cosponsor of S. 2866, a bill to amend the Farm Security and Rural Investment Act of 2002 to clarify the authority of the Secretary of Agriculture and the Commodity Credit Corporation to enter into memorandums of understanding with a State regarding the collection of approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans.

S.J. RES. 37

At the request of Mr. BROWNBACK, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S.J. Res. 37, a joint resolution to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian Tribes and offer an apology to all Native Peoples on behalf of the United States.

S. CON. RES. 8

At the request of Ms. COLLINS, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors 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 Hawaii (Mr.

INOUYE) and the Senator from Georgia (Mr. CHAMBLISS) 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. 430

At the request of Mr. HATCH, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. Res. 430, a resolution designating November 2004 as ''National Runaway Prevention Month''.

AMENDMENT NO. 3711

At the request of Mrs. HUTCHISON, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of amendment No. 3711 proposed to 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.

AMENDMENT NO. 3714

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3714 intended to be proposed to 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.

AMENDMENT NO. 3715

At the request of Mrs. FEINSTEIN, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of amendment No. 3715 intended to be proposed to 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.

AMENDMENT NO. 3716

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3716 intended to be proposed to 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.

AMENDMENT NO. 3719

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3719 intended to be proposed to 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.

AMENDMENT NO. 3756

At the request of Mr. GRAHAM of Florida, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of amendment No. 3756 intended to be proposed to 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.

AMENDMENT NO. 3765

At the request of Mr. ALLARD, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of amendment No. 3765 intended to be proposed to 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.

AMENDMENT NO. 3781

At the request of Mr. WARNER, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from Missouri (Mr. TALENT), the Senator from Colorado (Mr. ALLARD), the Senator from North Carolina (Mrs. DOLE), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Texas (Mr. CORNYN), the Senator from Nevada (Mr. ENSIGN) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of amendment No. 3781 proposed to 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.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HAGEL:

S. 2867. A bill to amend title 10, United States Code, to increase the amount of the military death gratuity from $12,000 to $50,000; to the Committee on Armed Services.

Mr. HAGEL. Mr. President, I rise today to introduce the ''Military Death Gratuity Improvement Act of 2004.'' This legislation would raise the military death gratuity paid to the families of military personnel killed while on active duty from $12,000 to $50,000. This increase would also be applied retroactively to all service members on active duty who have died since September 11, 2001.

The military death gratuity is money provided within 72 hours to families of service members who are killed while on active duty. These funds assist next-of-kin with their immediate financial needs.

As we face the challenges of the 21st Century, servicemen and women sacrificing for their country in a time of war should be assured that their families will be taken care of. The loss of a loved one is a tremendous emotional hardship for families. Congress must do what it can to ensure that it does not cause devastating financial hardship as well.

This bill will help alleviate some of the financial hardships faced by the families of our brave servicemen and women who give their lives in service to our country. It will send a message to our brave young men and women and their families that their Nation appreciates their service and sacrifice. I urge my colleagues in the Senate to join me in cosponsoring 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. 2867

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

SECTION 1. INCREASE IN DEATH GRATUITY PAYABLE WITH RESPECT TO MEMBERS OF THE ARMED FORCES.

(a) AMOUNT OF DEATH GRATUITY.—Section 1478(a) of title 10, United States Code, is amended by striking ''$12,000'' and inserting ''$50,000''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to deaths occurring on or after September 11, 2001.

(c) OFFSET.—The Secretary of Defense shall derive funds for amounts payable during fiscal year 2005 by reason of the amendment made by subsection (a) from amounts available for that fiscal year for travel for personnel assigned to, or employed in, the Office of the Secretary of Defense. Amounts for such purpose shall be transferred to the appropriate accounts of the Department of Defense available for such payments, and amounts so transferred shall not be counted for purposes of any limitation on the amount of transfers of Department of Defense funds during that fiscal year.

By Mr. SARBANES (for himself, Mr. CORZINE, Mrs. CLINTON, Mr. AKAKA, Mr. BINGAMAN, Mr. SCHUMER, Mr. DODD, Mrs. BOXER, and Ms. MIKULSKI):

S. 2868. A bill to amend the Electronic Fund Transfer Act to extend certain consumer protections to international remittance transfers of funds originating in the United States, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SARBANES. Mr. President, I rise today to introduce the International Remittance Consumer Protection Act of 2004. This legislation extends basic consumer protection rights to those who send remittances, and it creates new avenues and incentives for federally insured financial institutions to provide remittance and basic banking services to those who currently do not use such institutions to send remittances.

The practice of sending remittances is not new. Immigrants to the United States traditionally have used remittances to provide financial assistance to family members who remained in their country of origin, but the practice has been largely overlooked; it has not been systematically studied and its implications have not been fully understood. The 2000 census shows that 30 million people in this country are foreign-born—the largest number in our Nation's history and the vast majority of them—22 million—are citizens or legal residents. More than 40 percent of our Nation's foreign-born population immigrated to the United States in the 1990s, and some 15.4 million, or more than half the immigrant community, have come from Latin American countries. Immigrants make a vital contribution to the economic and social life of our Nation.

In a recent study, Sending Money Home: Remittances to Latin America from the US, 2004, the Inter-American

Development Bank (IADB) found that nationwide over 60 percent of Latin American immigrants send remittances. On average, each immigrant sends $240 at a time, 12 times per year. Although these individual transactions are not large, they have constituted an aggregate amount of over $30 billion from America to our Latin American neighbors in this year alone.

In my State of Maryland, we have 175,000 immigrants from Latin America and the vast majority send remittances back home. According to the IADB's study 80 percent of Maryland's immigrants from Latin America send remittances. The typical sender remits an average of $245, 14 times per year—in other words, remittances are a monthly matter, with special gifts for Christmas and Mother's Day.

The subject of remittances has been a major interest of mine for some time. As chairman of the Banking Committee, in February, 2002, during the 107th Congress, I chaired what I understand was the first congressional hearing devoted exclusively to the subject. Dr. Manuel Orozco, a leading researcher on remittances at the Inter-American Dialogue, told the committee that remittances from the U.S. to Latin America had grown substantially—at that point to an estimated $20 billion in 2001—and that between 15 to 20 percent—$3–$4 billion—was being lost in fees and other transaction costs. Since Dr. Orozco testified, remittances to Latin America have grown by $10 billion, 50 percent, in just 3 years, and continued growth is expected.

That an estimated 15 percent to 20 percent of the money sent in remittances is diverted to fees and other transaction costs, often hidden from the remittance sender, is evidence of the abusive practices that exist in the remittance market. There are two primary factors that account for this abuse. First, studies have shown that people who send remittances tend to be relatively low-wage earners, with modest formal education and relatively little experience in dealing with this country's complex system of financial institutions. As a result they are susceptible to unscrupulous actors who can take advantage of them by charging all sorts of exorbitant fees, which are often hidden or misrepresented. The exchange rate conversion is often the mechanism for this abusive practice.

Second, remittances are currently not subject to the requirements set by Federal consumer protection law, including the disclosure of fees. There is no requirement that a remittance transfer provider disclose to the consumer the exchange rate fee that will be applied in the transaction. Without knowing the exchange rate fee that the company is charging, a consumer has little ability to gauge accurately the full cost of sending a remittance. As Sergio Bendixen, a leading researcher of public opinion and behavior, with a specialty among Hispanic consumers, testified before the Banking Committee: ''an overwhelming majority of Hispanic immigrants are unaware that their families in Latin America receive less money than what they send from the United States.'' Further, a remittance sender cannot effectively shop between remittance transfer providers. The lack of basic information limits the amount of competition in this market.

The legislation I am introducing today extends basic consumer rights to those who send remittances. Further, by requiring clear and understandable disclosures to the remittance sender of the cost of the remittance, thus presenting to the consumer the full cost of sending money, the legislation will enhance competition, which in turn should lead to an overall decrease in the cost of sending remittances. As Sergio Bendixen testified to the Banking Committee, ''Full disclosure should unleash market forces that, hopefully, will result in a significant reduction in the cost of sending cash remittances.''

This legislation amends the Electronic Fund Transfer Act (EFTA), which is the primary vehicle for providing basic protections to most persons who engage in electronic transactions, to cover remittances, and to provide the basic rights associated with EFTA to remittance transactions. The two most important components of EFTA are the requirement of full disclosure of fees and the establishment of a process for the resolution of transactional errors. These rights have been an integral part of the regulations that govern our banking infrastructure since EFTA's enactment in 1978. The new legislation will build upon the success of EFTA by extending these basic rights to remittance senders.

The cornerstone of this legislation is the requirement that remittance transfer providers make three key disclosures to their consumers: (1) The total cost of the remittance, represented in a single dollar amount; (2) the total amount of currency that will be sent to the designated recipient, and (3) the promised date of delivery for the remittance. These disclosures follow the core recommendations of the Inter-American Development Bank, which in its publication, Remittances to Latin America and the Caribbean: Goals and Recommendations, states: ''Remittance institutions should disclose in a fully transparent manner, complete information on total costs and transfer conditions, including all commissions and fees, foreign exchange rates applied and execution time.''

The total cost disclosure will include the cost of the exchange rate conversion as well as all up-front fees. This single item will both give consumers a more accurate representation of the cost of the remittance transaction and allow consumers to more effectively compare costs between remittance transfer providers.

In order to calculate the cost of the exchange rate conversion, which is part of the total cost, the legislation requires that the Treasury Department post on its website, on a daily basis, the exchange rate for all currencies. At present the Treasury receives this information on a daily basis, but posts it only on a quarterly basis on the Treasury website. By posting the information daily, the Treasury could create a uniform and credible source for exchange rate information.

To calculate the cost to the consumer of the exchange rate differential, remittance transfer providers will use the difference between the previous business day's exchange rate, as posted on the Treasury website, and the exchange rate that the remittance transfer provider offers. Using the exchange rate posted by the Treasury will ensure that the exchange rate cost is calculated on a uniform basis. When the exchange rate cost is disclosed to the consumer as part of the total cost of the remittance transfer, the consumer will be better able to understand the full cost of the transaction and to shop between different remittance transfer providers.

In addition to fee disclosure requirements, this legislation establishes an error resolution mechanism so that consumers whose remittance transactions experience an error have a fair, open, and expedient process through which they may resolve those errors with the institution that conducted the flawed transaction. This basic right is already afforded to consumers who are protected by EFTA, and now this right will be extended to cover consumers who send remittances as well. Further, the legislation establishes an error resolution mechanism for remittance transfer errors that is responsive to the different types of errors that can occur in a remittance transaction and is reflective of the unique characteristics of the remittance market and its participants.

Under this legislation, a consumer has 1 year from the date that the remittance transfer company promised to deliver the money to notify the company that an error has occurred. The company is then required to resolve the error within 90 days. To resolve the error, the company must either (1) refund the full amount of the remittance that was not properly transferred, (2) resend that amount at no additional cost to the consumer or the designated recipient, or (3) demonstrate to the consumer that there was no error. The Federal Reserve Board is also granted the authority to establish additional remedies for specific situations that cannot be addressed by the three specific remedies that are described in the legislation.

It is urgent that we continue to encourage efforts to bring those who send remittances into the financial mainstream. In his testimony to the Banking Committee, Dr. Orozco pointed out that, ''About two-thirds of immigrants cash their salary checks in check cashing stores that charge exorbitant fees.

Many of these same immigrants then use what remains of their income to send remittances back home. In this common scenario, immigrants are penalized in both receiving and sending their earnings.'' In order to further bank those who are currently unbanked, the legislation that I am introducing today requires that the Federal banking agencies and the National Credit Union Administration provide guidelines to financial institutions regarding the offering of low-cost remittance transfers and no-cost or low-cost basic consumer amounts. This legislation also amends the Federal Credit Union Act to allow credit unions to offer remittances and to cash checks for persons who are in their field of membership but are not credit union members. The guidelines set out in the legislation will help educate the financial services industry about the importance and potential profitability of providing these services.

The sending of remittances in a fair and scrupulous manner is likely to be profitable for the institution that provides the remittance service, and indeed we have begun to see aggressive moves into the remittance market by many of the largest banking institutions. Individuals who send remittances but are currently unbanked represent an expanded and profitable customer base for financial institutions.

By its very nature, remittances is an issue that involves both the United States and other nations. As Professor Susan Martin of Georgetown University, who also testified at our hearing, told the Banking Committee: ''Until relatively recently, researchers and policy makers tended to dismiss the importance of remittances or emphasize only their negative aspects . . . but recent work on remittances show a far more complex and promising picture. . . Experts now recognize that remittances have far greater positive impact on communities in developing countries than previously acknowledged.'' In fact, the size of the remittance market is such that for six Central American and Caribbean nations—Nicaragua, Haiti, El Salvador, Honduras, Guyana and Jamaica—remittances constitute more than 10 percent of GDP; Haiti and Jamaica receive more in remittances than in revenues from trade. The World Bank estimates that Mexico receives more in remittances than it does in foreign direct investment. Reducing the costs of remittances is in the interest of both the United States and the countries that receive them.

Given the growing importance of annual remittance flows, we must work to increase their efficiency. One mechanism for accomplishing this objective, and for increasing the ability of financial institutions to offer remittances is linking our banking infrastructure with the banking infrastructures of other nations. The Federal Reserve operates an international automated clearing house system (ACHi) that is currently linked to seven countries, of which the vast majority are highly developed trading partners that receive relatively low levels of remittances. The ACHi was recently connected to Mexico, however, which will allow financial institutions throughout the United States, especially those institutions of smaller size, to provide remittance services more easily and cheaply to Mexico. This legislation directs the Fed to take into account the importance of remittance flows to other countries as it continues to expand the ACHi system. Linking the ACHi to countries that receive significant remittances has the potential to result in great benefits to consumers who send remittances from America as well as to those who receive the remittances around the world.

Finally, I am acutely aware of the need for better and more broadly available financial literacy and education for all Americans. I am pleased to report that in the last Congress, as part of the reauthorization of the Fair Credit Reporting Act, we established a Presidential Financial Literacy and Education Commission, which is charged with developing a national strategy to promote financial literacy and education. The Act addresses the issue of remittances by including in the commission's work a focus on increasing the ''awareness of the particular financial needs and financial transactions, such as the sending of remittances of consumers who are targeted in multilingual financial literacy and education programs and improve the development and distribution of multilingual financial literacy and education materials.'' The legislation that I am introducing today builds on that framework by instructing the bank and credit union regulators to work with the commission to specifically increase the financial education efforts that target those persons who send remittances.

Millions of Americans send remittances to family members around the world, for a total far exceeding the $30 billion that goes to Latin America alone. Yet almost all of these transactions take place without the basic consumer rights and protections that apply to other electronic transfers. Consumers who send remittances are often immigrants and workers who earn modest wages, who are not aware of the full costs of each remittance, as a practical matter have no way of finding out and, as a consequence, in the aggregate pay billions of dollars in costs and hidden fees. They do not have available to them an established procedure for resolving transactional errors. This legislation rectifies this situation by extending to remittances the basic consumer rights established in EFTA. The bill also contains provisions that, when implemented, will allow more insured financial institutions to provide remittance services—and potentially at lower costs to consumers. The bill contains important provisions to help bring the unbanked—men and women without an account at a bank or credit union—into the financial mainstream. Taken together, these measures will increase transparency, competition and efficiency in the remittance market, while helping to bring more Americans into the financial mainstream.

A broad range of community, civil rights, and consumer groups have endorsed this legislation including the National Council of La Raza, the Mexican American Legal Defense and Educational Fund, the League of United Latin American Citizens, the Leadership Conference on Civil Rights, United Farm Workers of America, the Farmworker Justice Fund, the NAACP, Casa de Maryland, the National Federation of Filipino American Associations, the Asian Pacific American Labor Alliance, National Asian Pacific American Legal Consortium, Consumers Union, Consumer Federation of America, the National Consumer Law Center, the National Community Reinvestment Coalition, the Center for Responsible Lending, U.S. PIRG, ACORN, Woodstock Institute, and the National Association of Consumer Advocates.

I ask unanimous consent that the text of the Intemational Remittance Consumer Protection Act be printed in the RECORD, together with letters in support of the bill from the National Council of La Raza, the Mexican American Legal Defense and Educational Fund, the Leadership Conference on Civil Rights, Casa de Maryland, and a letter from Consumers Union, Consumer Federation of America, National Consumer Law Center, and U.S. PIRG.

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

S. 2868

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''International Remittance Consumer Protection Act of 2004''.

SEC. 2. TREATMENT OF REMITTANCE TRANSFERS.

(a) IN GENERAL.—The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended—

(1) in section 902(b), by inserting ''and remittance'' after ''electronic fund'';

(2) by redesignating sections 918, 919, 920, and 921 as sections 919, 920, 921, and 922, respectively; and

(3) by inserting after section 917 the following:

''SEC. 918. REMITTANCE TRANSFERS.

''(a) DISCLOSURES REQUIRED FOR REMITTANCE TRANSFERS.—

''(1) IN GENERAL.—Each remittance transfer provider shall make disclosures to consumers, as specified by this section and augmented by regulation of the Board.

''(2) SPECIFIC DISCLOSURES.—In addition to any other disclosures applicable under this title, a remittance transfer provider shall clearly and conspicuously disclose, in writing and in a form that the consumer may keep, to each consumer requesting a remittance transfer—

''(A) at the time at which the consumer makes the request, and prior to the consumer making any payment in connection with the transfer—

''(i) the total amount of currency that will be required to be tendered by the consumer in connection with the remittance transfer;

''(ii) the amount of currency that will be sent to the designated recipient of the remittance transfer, using the values of the currency into which the funds will be exchanged;

''(iii) the total remittance transfer cost, identified as the 'Total Cost'; and

''(iv) an itemization of the charges included in clause (iii), as determined necessary by the Board; and

''(B) at the time at which the consumer makes payment in connection with the remittance transfer, if any—

''(i) a receipt showing—

''(I) the information described in subparagraph (A);

''(II) the promised date of delivery;

''(III) the name and telephone number or address of the designated recipient; and

''(ii) a notice containing—

''(I) information about the rights of the consumer under this section to resolve errors; and

''(II) appropriate contact information for the remittance transfer provider and its State licensing authority and Federal or State regulator, as applicable.

''(3) EXEMPTION AUTHORITY.—The Board may, by rule, and subject to subsection (d)(3), permit a remittance transfer provider—

''(A) to satisfy the requirements of paragraph (2)(A) orally if the transaction is conducted entirely by telephone;

''(B) to satisfy the requirements of paragraph (2)(B) by mailing the documents required under such paragraph to the consumer not later than 1 business day after the date on which the transaction is conducted, if the transaction is conducted entirely by telephone; and

''(C) to satisfy the requirements of subparagraphs (A) and (B) of paragraph (2) with 1 written disclosure, but only to the extent that the information provided in accordance with paragraph (2)(A) is accurate at the time at which payment is made in connection with the subject remittance transfer.

''(b) FOREIGN LANGUAGE DISCLOSURES.—The disclosures required under this section shall be made in English and in the same languages principally used by the remittance transfer provider, or any of its agents, to advertise, solicit, or market, either orally or in writing, at that office, if other than English.

''(c) REMITTANCE TRANSFER ERRORS.—

''(1) ERROR RESOLUTION.—

''(A) IN GENERAL.—If a remittance transfer provider receives oral or written notice from the consumer within 365 days of the promised date of delivery that an error occurred with respect to a remittance transfer, including that the full amount of the funds to be remitted was not made available to the designated recipient in the foreign country, the remittance transfer provider shall resolve the error pursuant to this subsection.

''(B) REMEDIES.—Not later than 90 days after the date of receipt of a notice from the consumer pursuant to subparagraph (A), the remittance transfer provider shall, as applicable to the error and as designated by the consumer—

''(i) refund to the consumer the total amount of funds tendered by the consumer in connection with the remittance transfer which was not properly transmitted;

''(ii) make available to the designated recipient, without additional cost to the designated recipient or to the consumer, the amount appropriate to resolve the error;

''(iii) provide such other remedy, as determined appropriate by rule of the Board for the protection of consumers; or

''(iv) demonstrate to the consumer that there was no error.

''(2) RULES.—The Board shall establish, by rule, clear and appropriate standards for remittance transfer providers with respect to error resolution relating to remittance transfers, to protect consumers from such errors.

''(d) APPLICABILITY OF OTHER PROVISIONS OF LAW.—

''(1) APPLICABILITY OF TITLE 18 AND TITLE 31 PROVISIONS.—A remittance transfer provider may only provide remittance transfers if such provider is in compliance with the requirements of section 5330 of title 31, United States Code, and section 1960 of title 18, United States Code, as applicable.

''(2) APPLICABILITY OF THIS TITLE.—A remittance transfer that is not an electronic fund transfer, as defined in section 903, shall not be subject to any of sections 905 through 913. A remittance transfer that is an electronic fund transfer, as defined in section 903, shall be subject to all provisions of this title that are otherwise applicable to electronic fund transfers under this title.

''(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

''(A) to affect the application to any transaction, to any remittance provider, or to any other person of any of the provisions of subchapter II of chapter 53 of title 31, United States Code, section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b), or chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951–1959), or any regulations promulgated thereunder; or

''(B) to cause any fund transfer that would not otherwise be treated as such under paragraph (2) to be treated as an electronic fund transfer, or as otherwise subject to this title, for the purposes of any of the provisions referred to in subparagraph (A) or any regulations promulgated thereunder.

''(e) PUBLICATION OF EXCHANGE RATES.—The Secretary of the Treasury shall make available to the public in electronic form, not later than noon on each business day, the dollar exchange rate for all foreign currencies, using any methodology that the Secretary determines appropriate, which may include the methodology used pursuant to section 613(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2363(b)).

''(f) AGENTS AND SUBSIDIARIES.—A remittance transfer provider shall be liable for any violation of this section by any agent or subsidiary of that remittance transfer provider.

''(g) DEFINITIONS.—As used in this section—

''(1) the term 'exchange rate fee' means the difference between the total dollar amount transferred, valued at the exchange rate offered by the remittance transfer provider, and the total dollar amount transferred, valued at the exchange rate posted by the Secretary of the Treasury in accordance with subsection (e) on the business day prior to the initiation of the subject remittance transfer;

''(2) the term 'remittance transfer' means the electronic (as defined in section 106(2) of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7006(2))) transfer of funds at the request of a consumer located in any State to a person in another country that is initiated by a remittance transfer provider, whether or not the consumer is an account holder of the remittance transfer provider or whether or not the remittance transfer is also an electronic fund transfer, as defined in section 903;

''(3) the term 'remittance transfer provider' means any person or financial institution that provides remittance transfers on behalf of consumers in the normal course of its business, whether or not the consumer is an account holder of that person or financial institution;

''(4) the term 'State' means any of the several States, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States; and

''(5) the term 'total remittance transfer cost' means the total cost of a remittance transfer expressed in dollars, including all fees charged by the remittance transfer provider, including the exchange rate fee.''.

(b) EFFECT ON STATE LAWS.—Section 919 of the Electronic Fund Transfer Act (12 U.S.C. 1693q) is amended—

(1) in the first sentence, by inserting ''or remittance transfers (as defined in section 918)'' after ''transfers''; and

(2) in the fourth sentence, by inserting '', or remittance transfer providers (as defined in section 918), in the case of remittance transfers,'' after ''financial institutions''.

SEC. 3. FEDERAL CREDIT UNION ACT AMENDMENT.

Paragraph (12) of section 107 of the Federal Credit Union Act (12 U.S.C. 1757(12)) is amended to read as follows:

''(12) in accordance with regulations prescribed by the Board—

''(A) to provide remittance transfers, as defined in section 918(h) of the Electronic Fund Transfer Act, to persons in the field of membership; and

''(B) to cash checks and money orders for persons in the field of membership for a fee;''.

SEC. 4. AUTOMATED CLEARINGHOUSE SYSTEM.

(a) EXPANSION OF SYSTEM.—The Board of Governors of the Federal Reserve System shall work with the Federal reserve banks to expand the use of the automated clearinghouse system for remittance transfers to foreign countries, with a focus on countries that receive significant remittance transfers from the United States, based on—

(1) the number, volume, and sizes of such transfers;

(2) the significance of the volume of such transfers, relative to the external financial flows of the receiving country; and

(3) the feasibility of such an expansion.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, and on April 30 biannually thereafter, the Board of Governors of the Federal Reserve System shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the status of the automated clearinghouse system and its progress in complying with the requirements of this section.

SEC. 5. EXPANSION OF FINANCIAL INSTITUTION PROVISION OF REMITTANCE TRANSFERS.

(a) PROVISION OF GUIDELINES TO INSTITUTIONS.—Each of the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) and the National Credit Union Administration shall provide guidelines to financial institutions under the jurisdiction of the agency regarding the offering of low-cost remittance transfers and no-cost or low-cost basic consumer accounts, as well as agency services to remittance transfer providers.

(b) CONTENT OF GUIDELINES.—Guidelines provided to financial institutions under this section shall include—

(1) information as to the methods of providing remittance transfer services;

(2) the potential economic opportunities in providing low-cost remittance transfers; and

(3) the potential value to financial institutions of broadening their financial bases to include persons that use remittance transfers.

(c) ASSISTANCE TO FINANCIAL LITERACY COMMISSION.—The Secretary of the Treasury and each agency referred to in subsection (a) shall, as part of their duties as members of the Financial Literacy and Education Commission, assist that Commission in improving the financial literacy and education of consumers who send remittances.

SEC. 6. STUDY AND REPORT ON REMITTANCES.

(a) STUDY.—The Comptroller General of the United States shall conduct a study and analysis of the remittance transfer system, including an analysis of its impact on consumers.

(b) AREAS OF CONSIDERATION.—The study conducted under this section shall include, to the extent that information is available—

(1) an estimate of the total amount, in dollars, transmitted from individuals in the United States to other countries, including per country data, historical data, and any available projections concerning future remittance levels;

(2) a comparison of the amount of remittance funds, in total and per country, to the amount of foreign trade, bilateral assistance, and multi-development bank programs involving each of the subject countries;

(3) an analysis of the methods used to remit the funds, with estimates of the amounts remitted through each method and descriptive statistics for each method, such as market share, median transaction size, and cost per transaction, including through—

(A) depository institutions;

(B) postal money orders and other money orders;

(C) automatic teller machines;

(D) wire transfer services; and

(E) personal delivery services;

(4) an analysis of advantages and disadvantages of each remitting method listed in subparagraphs (A) through (E) of paragraph (3);

(5) an analysis of the types and specificity of disclosures made by various types of remittance transaction providers to consumers who send remittances; and

(6) if reliable data are unavailable, recommendations concerning options for Congress to consider to improve the state of information on remittances from the United States.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study conducted under this section.

NATIONAL COUNCIL OF LA RAZA,
Washington, DC, Sept. 30, 2004.

Hon. PAUL SARBANES,
Ranking Member, U.S. Senate Committee on Banking, Housing, and Urban Affairs, Washington, DC.

DEAR SENATOR SARBANES: On behalf of the National Council of La Raza (NCLR), the largest national Hispanic constituency-based organization, I write to express our support for your proposed legislation, the International Remittance Consumer Protection Act of 2004.

As you know very well, the cost of sending remittances to Latin America can be very high—as much as 12 percent per transaction. Lack of competition in the remittance business, which is dominated by a small number of companies that charge higher fees than financial institutions, has kept prices high. In addition to fees, consumers are often subject to poor monetary exchange rates that are not fully disclosed. These exorbitant fees and hidden charges adversely affect many Latinos who send money regularly to Latin America. Many of these remitters are working poor, and nearly half (43 percent) do not have basic banking accounts to conduct simple transactions.

For these reasons, we appreciated the opportunity to meet with your staff and provide input regarding several issues that affect Latino remittance senders. Specifically, we support provisions in your bill that require disclosing upfront all fees and exchange rates to consumers, most of whom are immigrant and/or English language learners (ELL), in languages and formats accessible to them; allow credit unions to offer remittance and check cashing services to nonmembers in the field of membership, which will connect remitters to low-cost financial services facilitating their entry into the financial mainstream; and assist the Federal Financial Literacy Commission in informing remitters of new consumer rights relating to remittance transactions via wire transfers.

Again, thank you for soliciting our feedback on the International Remittance Consumer Protection Act and for your continued support of Latino and immigrant communities. We look forward to working with you to ensure that immigrants have access to information and make fully-informed choices when wiring money to family members abroad. In the end, we hope such legislative measures will provide remitters greater access to mainstream banking tools and services to improve their long-term financial security. We hope to work with you to achieve these goals. Please do not hesitate to contact me if I can be of assistance to you.

Sincerely,

RAUL YZAGUIRRE,
President/CEO.

[Sept. 30, 2004]

MALDEF APPLAUDS SARBANES BILL TO REGULATE REMITTANCES AND PROTECT LATINOS' CONSUMER RIGHTS

(By MALDEF President and General Counsel Ann Marie Tallman)

MALDEF applauds Senator Paul Sarbanes' (D–MD) introduction of the International Remittance Consumer Protection Act of 2004. We believe this bill is the first step in the right direction to improve Latino immigrants' access to banks, and to protect their rights as consumers. This bill is long overdue. MALDEF urges Congress to pass it into law and protect Latino consumer rights.

Senator Sarbanes' International Remittance Consumer Protection Act would bring remittance transfers under the umbrella of protection of U.S. financial services laws. It would make remittance transfers subject to the same set of laws to which any other money transaction in the U.S. is subject. Senator Sarbanes' bill would provide for basic consumer protections for the millions of Latinos and the billions of dollars they send through remittances, by requiring full disclosure of all transfer fees, and a receipt with such full disclosure in the language used by the consumer. It would also provide for error resolutions and reimbursements when family members overseas do not receive the full amount of funds sent. The bill would also: (1) permit credit unions to offer remittance and check cashing services; (2) direct the Federal Reserve Board to provide guidelines to encourage U.S. financial institutions to offer low-cost remittance services and tap into this market; (3) assist the Federal Financial Literacy Commission in improving ''financial literacy'' of consumers who send remittances; and (4) direct the General Accounting Office to study the remittance market and report to Congress with its findings.

Latino immigrants' remittances represent the most important source of ''development aid'' to most Latin American countries. Hard-working Latino immigrants are making essential contributions to the U.S. economy, and U.S. financial institutions have benefited greatly from Latino immigrants' money transfers or ''remittances.'' In keeping with the tradition of American immigrants, more than 60 percent of Latin American born adults generously send money to their extended families in Latin America on a regular basis. The volume is staggering—the International Monetary Fund reported that over $30 billion in remittances are expected to be sent from the United States to Latin America in 2004. The Hispanic Association of Corporate Responsibility reported that Mexico is the second-largest recipient, just behind India, and that nearly 12 percent of remittances worldwide go to Mexico. This market is unregulated, leaving Latinos vulnerable to excessive processing fees imposed by some remittance transfer agencies. As the PEW Hispanic Center has reported, the fees have been inappropriately high, reaching up to 20 percent. Even worse, some Latinos have had their hard-earned money never reach their intended recipients, or portions of their transfers have been skimmed by unscrupulous agents.

For all these reasons, MALDEF thanks Senator Sarbanes for the introduction of the International Remittance Consumer Protection Act, and urges the Congress to enact this essential piece of legislation as soon as possible, in order to protect Latino consumer rights.

LEADERSHIP CONFERENCE ON CIVIL RIGHTS,
Washington, DC, Sept. 30, 2004.

Hon. PAUL SARBANES,
U.S. Senate,
Washington, DC.

DEAR SENATOR SARBANES: On behalf of the Leadership Conference on Civil Rights (LCCR), the nation's oldest, largest and most diverse civil and human rights coalition, we write to express our strong support for the ''International Remittance Consumer Protection Act of 2004.'' LCCR greatly appreciates your efforts to strengthen the rights of consumers who send money overseas.

This important legislation will, for the first time, bring remittances under the framework of federal consumer protection law, and will encourage transparency and competition in the remittance market. There are three key components to the bill:

First, it establishes clear disclosure requirements for remittance transfer companies, including the requirement that the cost of the exchange rate conversion be included in the total cost of the transfer. This cost is, at present, a hidden fee through which consumers are unwittingly charged excessive and abusive additional costs. The bill also takes an innovate approach to calculating the exchange rate fee, so consumers will be able to shop among different remittance companies with the full knowledge of each company's prices.

Second, it creates an open and fair error resolution process for remittance transfer errors. Currently, consumers who send remittances do not have any guaranteed recourse to recover money if a remittance transfer company fails to deliver on its promises. The bill establishes an error resolution mechanism for remittance transfer errors that is responsive to the different types of errors that can occur in a remittance transaction, and is reflective of the unique characteristics of the remittance market and its participants.

Finally, it requires Federal bank and credit union regulators to encourage federally-insured financial institutions to offer low-cost remittance services and no-cost or low-

cost basic consumer bank accounts. It is estimated that half of all remittance senders do not have a bank account, and only one in ten consumers use banks to send remittances. This requirement on the Federal regulators will further encourage competition in the market and will assist in the critical effort to bank the unbanked.

We greatly appreciate your leadership on this issue, and we look forward to working with you to enact the International Remittance Consumer Protection Act of 2004. If we can be of any help, please feel free to contact Rob Randhava, LCCR Policy Analyst, at (202) 466–6058.

Sincerely,

WADE HENDERSON,
Executive Director.
NANCY ZIRKIN,
Deputy Director.

CASA OF MARYLAND, INC.,
Takoma Park, Md.

Hon. PAUL SARBANES,
U.S. Senate,
Washington, DC.

DEAR SENATOR SARBANES: On behalf of CASA of Maryland, Inc., the largest Latino service and advocacy organization in Maryland, I write to offer strong support for the ''International Remittance Consumer Protection Act of 2004.'' CASA greatly appreciates your efforts to strengthen the rights of consumers who send money overseas.

CASA of Maryland, Inc. provides high quality and affordable remittances services for the Latino community in Maryland. We witness every day the abuses that this legislation will prevent.

This historic legislation brings remittances under the framework of federal consumer protection law, and will encourage transparency and competition in the remittance market. There are three components to the bill:

First, it establishes clear disclosure requirements for remittance transfer companies, including the requirement that the cost of the exchange rate conversion be included in the total cost of the transfer. This cost is, at present, a hidden fee through which consumers are unwittingly charged excessive and abusive additional costs. The bill also takes an innovate approach to calculating the exchange rate fee, so consumers will be able to shop among different remittance companies with the full knowledge of each company's prices.

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Finally, it requires Federal bank and credit union regulators to encourage federally-insured financial institutions to offer low-cost remittance services and no-cost or low-cost basic consumer bank accounts. It is estimated that half of all remittance senders do not have a bank account, and only one in ten consumers use banks to send remittances. This requirement on the Federal regulators will further encourage competition in the market and will assist in the critical effort to bank the unbanked.

On behalf of the immigrant community throughout Maryland, I congratulate you on your leadership with this issue, and we look forward to working with you to enact the International Remittance Consumer Protection Act of 2004. If I can be of any assistance, please feel free to contact me at 301–270–0419.

Sincerely,

GUSTAVO TORRES,
Executive Director.

CONSUMERS UNION
WEST COAST OFFICE,
San Francisco, CA, September 30, 2004.

Senator PAUL SARBANES,
U.S. Senate.

DEAR SENATOR SARBANES: Consumers Union, the nonprofit publisher of Consumer Reports, the Consumer Federation of America, the National Consumer Law Center on behalf of its low income clients, and U.S. PIRG are pleased to express our strong support the International Remittance Consumer Protection Act of 2004, as introduced today. This bill will provide essential information and consumer protections to hardworking people who send money to family members in other countries, very significantly improving the operation of the money transmission marketplace for consumers.

Consumers in the U.S. send a significant dollar volume of international remittances using both financial institutions and non-financial institutions. Money sent to family members outside the U.S. represents hard-earned family income. As the Inter-American Development Bank has said: ''The dramatic growth of international remittances is testimony to the hard work and commitment of migrant workers seeking better lives for themselves and their families.'' Money transmission costs, disclosures, and consumer rights are not an issue that extends beyond recent immigrants. Consumers who are U.S. citizens or longstanding residents also send money to family members outside of the U.S.

U.S consumers sent $13.2 billion to Mexico in 2003, usually in amounts of about $500 per transmission, according to a report by the Pew Hispanic Center. According to the Inter-American Development Bank, U.S. consumers send $38 billion a year to Latin America and the Caribbean, often in amounts of $200 to $300 per transmission. U.S. workers also send money to India, the Philippines, and other countries.

Consumers who transmit funds internationally need the protections that would be provided by the International Remittance Consumer Protection Act of 2004. These protections include plain disclosures before sending the money such as the amount of foreign currency that will actually be sent to the recipient in another country and the total cost of the money transmission. The bill will require that this information to be given before the transaction starts, which is the time that pricing information is most useful to the consumer. Consumers who are informed about the true amount of funds that will be sent, and about the full cost of the money transmission transaction, can shop around much more effectively for the best rates and fees.

The bill will also require that the consumer be given a receipt with this important pricing information and with the date when the money is to be delivered. In addition, the bill will protect persons in the U.S. who send money out of the country if that money is not received in the other country, or if the wrong amount is received. These error resolution provisions are designed specifically for money transmission, but are based on the same principles as existing protections that consumers enjoy when they make payments domestically using an electronic fund transfer from a bank account. Money that is sent to family members outside the country often is essential to the economic survival of those family members. It is important that the funds arrive as promised. This bill would require money transmitters to tell the sender when the money should arrive and would also create a mechanism for a refund if there is a problem with the sending of the funds.

Finally, the bill would encourage more federally insured financial institutions to offer low cost remittance services. Since some consumers who send remittances do not have bank accounts, this could be a way for federally insured financial institutions to serve new markets. According to an extensive study by the Pew Hispanic Center, financial institutions current have only about 3% of the international remittance market.

For these reasons, we are pleased to express our very strong support for the International Remittance Consumer Protection Act of 2004.

Very truly yours,

GAIL HILLEBRAND,
Consumers Union of U.S., Inc.
JEAN ANN FOX,
Consumer Federation of America.
MARGOT SAUNDERS,
National Consumer Law Center.
ED MIERZWINSKY,
U.S. PIRG.

By Mr. GRAHAM of South Carolina (for himself and Mr. CORNYN):

S. 2871. A bill to provide for enhanced criminal penalties for crimes related to slavery and alien smuggling; to the Committee on the Judiciary.

Mr. GRAHAM of South Carolina. Mr. President, as we all know, people from all over the world want to come to America to pursue a better life for themselves and their families.

Unfortunately, however, some people entrust their lives to some very dangerous people in their effort to gain our shores. And, tragically, some people are brought here against their will and kept as human chattel, enslaved in horrible conditions, in the midst of our freedom.

After hearing of the horrible deaths of aliens smuggled into the country and inhumanely abandoned along a Texas highway last year, I wanted to examine whether we are doing all we can to combat these horrible crimes.

In talking with various law enforcement officials and victims, I heard of alien smugglers and traffickers who, through unabashed acts of profiteering, endanger the lives of countless aliens while compromising the integrity of our immigration laws at the same time. Make no mistake, the incentives for human smugglers are enormous. According to the Department of State, human smuggling around the globe generates an estimated $9.5 billion a year.

The commodities involved in this illicit trade are men, women, and children who, for the smuggler, represent substantial profits. The State Department estimates that more than a million women and children are trafficked around the world each year, generally for the purpose of domestic servitude, sweatshop labor, or sexual exploitation. At any given time, the Department estimates that thousands of people are in the smuggling pipeline, with the United States being the primary

target. Smugglers deliver some 50,000 aliens here each year. Alien smuggling is a global problem which requires a systematic and coordinated response. We should do all we can within our criminal laws to combat this terrible problem.

Given the risks associated with these crimes every time they are carried out, the punishment should be appropriate to deter future smuggling or trafficking, and to sufficiently sanction those who are caught. Currently, Title 8 smuggling provisions provide that a person found guilty of alien smuggling where death results is subject to the full range of punishments, including the death penalty. However, if death results from a Title 18 trafficking offense, where the victims are arguably more vulnerable, the defendant is not subjected to the death penalty.

In my opinion, an important component of criminal justice prosecutions is to serve as a deterrent to others who may be disposed to commit a crime. We should ensure that the punishments for smuggling and trafficking crimes are such that the risks of apprehension, prosecution and punishment far outweigh the payday at their delivery point. And, we need to be diligent in making certain that notice of these penalties is conveyed to those who are engaged in this enterprise, up and down the smuggling and trafficking organizational chain. Obviously, in my opinion, the best way to do that is the vigorous prosecution and harsh punishment of those we do catch.

I also want to say a word about the goal of this legislation. Clearly, the smuggling and trafficking problem impacts a host of immigration issues. While we are engaged in the nationwide debate surrounding immigration, we must also ensure that the crimes related to smuggling and trafficking are punished appropriately. We should not wait for the conclusion of debate on the overall issue.

Whatever your feelings are regarding immigration policy, I think everyone can agree that we must not allow otherwise innocent men, women, and children to be abused and killed by those who seek to profit from the desperation of others.

By Mr. BUNNING (for himself and Mr. NELSON of Nebraska):

S. 2872. A bill to amend the Internal Revenue Code of 1986 to provide a credit to certain agriculture-related businesses for the cost of protecting certain chemicals; to the Committee on Finance.

Mr. BUNNING. Mr. President, I rise today to introduce the Agricultural Business Security Investment Tax Credit Act of 2004. I am pleased to join with my colleague from Nebraska, Senator NELSON, In supporting this important legislation.

Security at our agricultural facilities has regrettably become a national concern in the last decade. While we saw agricultural products used for destruction in Oklahoma City in 1995, our concerns have only been compounded by the tragedies of September 11 and the threat of terrorism. The Senate recognized this growing concern when we considered agricultural products in the Federal hazardous materials lists in the USA Patriot Act of 2001.

The American agricultural industry has already recognized some of the dangers on its own and has made significant strides in improving security. Shops throughout the country have started to invest in security measures to keep their chemicals and fertilizers from being used illegally. In 2003, the Agricultural Retailers Association published a web-based, security-vulnerability assessment tool and has cooperated with the USDA to secure farmers and ranchers.

But vulnerability assessments often require as much as $50,000 to $100,000 in capital investment. Meeting these pressing security needs is not feasible for many of the more than 9,000 retail facilities with fertilizer and chemicals stocks in the United States.

That is why it is important we enact this tax credit. The credit would equal 50 percent of the cost of eligible security upgrades at agricultural retail businesses and is capped at $50,000 during any 5 year period. This money can be used for many different security programs, such as employee background checks, locking equipment and even the latest chemical additives that can render fertilizer unfit for illegal purposes.

In my home State of Kentucky, fertilizer theft has become a serious problem and is contributing to a dangerous rise in the illegal drug trade. One common fertilizer, anhydrous ammonia, is stolen in large quantities and is a fundamental part of the production of some forms of methamphetamine. This problem is especially bad in rural areas where police officers in Kentucky are try to curb the problem by distributing locks to farmers and training them to identify the signs of a methamphetamine label.

But these efforts are not enough. This legislation is an important step to ensure that America's agricultural facilities are secure. Without our action, many of the facilities throughout our country would simply be unable to fund security improvements. We cannot risk fertilizers and chemicals falling into the wrong hands and facilitating illegal drug manufacturing or terrorist bomb makers. I hope my colleagues will join Senator NELSON and me in supporting this important legislation.

By Mr. GRASSLEY:

S. 2873. A bill to extend the authority of the United States District Court for the Southern District of Iowa to hold court in Rock Island, Illinois; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that text of this bill be printed in the RECORD.

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

S. 2873

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

SECTION 1. HOLDING OF COURT FOR THE SOUTHERN DISTRICT OF IOWA.

Section 11029 of the 21st Century Department of Justice Appropriations Authorization Act (28 U.S.C. 95 note; Public Law 107–273; 116 Stat. 1836) is amended by striking ''July 1, 2005'' and inserting ''July 1, 2006''.

By Mr. BIDEN:

S. 2874. A bill to authorize appropriations for international broadcasting operations and capital improvements, and for other purposes; to the Committee on Foreign Relations.

Mr. BIDEN. Mr. President, today I introduce legislation to significantly expand our international broadcasting to the Muslim world.

The United States currently broadcasts news and information in over 60 languages to nations in every region of the world. Through both radio and TV, we tell America's story to the world—with news and information programming about not only U.S. Government policy, but life and culture in the United States. We also bring the world to overseas audiences, providing them local, regional and world news that they often may not receive, especially in closed societies. Such broadcasts have been an important foreign policy tool for six decades, since Voice of America broadcasts were initiated during the Second World War. During the Cold War, Radio Free Europe and Radio Liberty broadcasts behind the Iron Curtain were a literal information lifeline for millions trapped under Soviet misrule.

Since the attacks of September 11, 2001, the Broadcasting Board of Governors, the Federal agency responsible for these broadcasts, has significantly expanded our outreach to the Muslim world. At the direction of Congress, it reestablished Radio Free Afghanistan broadcasts, which had been curtailed in the 1990s. It initiated a new Arabic-language service to the Middle East—Radio Sawa—featuring a new format of both music and news and information programming designed to reach younger audiences. It started a new Persian service, Radio Farda, broadcast to Iran. And it launched a satellite television station, Alhurra, which is transmitted across the Arab world in an effort to compete with other pan-Arab television outlets like Al Jazeera and Al Arabiya.

We have seen dramatic results. In several cities in the Middle East, Radio Sawa is now the leading international broadcaster, and is competitive with local stations. A survey conducted in Morocco earlier this year shows that, in Casablanca and Rabat, Radio Sawa is the No. 1 station among all listeners over age 15. Some 88 percent of people in those cities under the age of 30 listen weekly, and 64 percent of those

over age 30 do so. The listener audience is not as high in other countries—ranging from a low of 2 percent in Lebanon to 7 percent in Egypt to 42 percent in the UAE to 45 percent in Kuwait. But these data are phenomenal for international broadcasting, where you are doing well if you are attracting five percent of the audience weekly.

Although Alhurra television programming has only been on the air for 7 months, it is already attracting an important audience share. Recent data indicate that some 33 percent watch it weekly in Kuwait, 20 percent watch it weekly in Saudi Arabia, and 19 percent watch it weekly in Jordan and the United Arab Emirates. That's not as high as Al Jazeera and Al Arabiya, other pan-Arab satellite networks that are more dominant, but after 7 months, we are in the game.

We can and should build on these successes, by expanding our broadcasting efforts to other nations with large Muslim populations—from Southeast Asia to Central and South Asia to the African continent. The bill that I introduce today authorizes such an expansion, and would provide for new or expanded services, in both radio and television, to all of these regions. This would not involve a one-sized-fits-all approach, but a targeted effort based on analysis of each individual market.

I do not want to imply that this will provide an immediate impact. It will be a significant challenge. It will require additional resources and personnel. It will require diplomatic efforts—to obtain permission for construction relay stations and to procure local broadcast licenses. But we cannot afford not to try.

Around the globe, there are some 1.2 billion Muslims. Polling data indicate that favorable attitudes toward the United States and U.S. policy have declined considerably in the last few years. One report, prepared by the Pew organization in June 2003, stated that ''the bottom has fallen out of support for America in most of the Muslim world. Negative views of the U.S. among Muslims, which had been largely limited to countries in the Middle East, have spread to Muslim populations in Indonesia and Nigeria.'' The negative image of America is perhaps the natural result of our status as a global superpower. It also stems from disagreements in foreign nations with U.S. policy. But it is also the result of a failure to explain U.S. policy, and a failure to engage in a dialogue with foreign audiences.

The negative opinion in the world about the United States and U.S. policy is a national security challenge of the fist order. We must deal with this simple fact: most foreign governments, even non-democratic ones, are constrained in their ability to support American policy if their own people oppose the United States and its policies. We must, therefore, greatly expand our efforts to engage foreign audiences, not in a one-way monologue, but in a dialogue. International broadcasting is just one means of conducting that dialogue. We have to explain who we are, what we stand for, and what our motives are. If we don't, we will have ceded the field to people who will misrepresent our policies or our motives.

International broadcasting is one of several public diplomacy programs—such as international exchanges and information programs—that have been underfunded and understaffed for too long. This legislation I introduce today only addresses international broadcasting. We should make similar investments in our other public diplomacy programs, and I will continue to work to ensure that we do so.

The 9/11 Commission recognized the lack of adequate funding for these programs, and called on Congress and the administration to invest in them. Among other things, the Commission specifically recommended that we increase funding for international broadcasting:

> Recognizing that Arab and Muslim audiences rely on satellite television and radio, the government has begun some promising initiatives in television and radio broadcasting to the Arab world, Iran, and Afghanistan. These efforts are beginning to reach large audiences. The Broadcasting Board of Governors has asked for much larger resources. It should get them.

The 9/11 Commission did not recommend a specific budget amount, or provide a detailed plan. This proposal does both. It is based on a thoroughly-researched plan. It provides significant resources—$222 million in one-time costs, and annual costs of $345 million. This represents about a 60 percent increase over the current annual budget of $570 million for such broadcasting. Relative to other national security programs, I believe it is a bargain—and an investment that is well worth the price.

I urge my colleagues to support 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. 2874

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Initiative 911 Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Open communication of information and ideas among peoples of the world contributes to international peace and stability, and that the promotion of such communication is important to the national security of the United States.

(2) The United States needs to improve its communication of information and ideas to people in foreign countries, particularly in countries with significant Muslim populations.

(3) A significant expansion of United States international broadcasting would provide a cost-effective means of improving communication with countries with significant Muslim populations by providing news, information, and analysis, as well as cultural programming, through both radio and television broadcasts.

(4) The report of the National Commission on Terrorist Attacks Upon the United States stated that, ''Recognizing that Arab and Muslim audiences rely on satellite television and radio, the government has begun some promising initiatives in television and radio broadcasting to the Arab world, Iran, and Afghanistan. These efforts are beginning to reach large audiences. The Broadcasting Board of Governors has asked for much larger resources. It should get them.''.

SEC. 3. SPECIAL AUTHORITY FOR SURGE CAPACITY.

The United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.) is amended by adding at the end the following new section:

''SEC. 316. SPECIAL AUTHORITY FOR SURGE CAPACITY.

''(a) EMERGENCY AUTHORITY.—

''(1) IN GENERAL.—Whenever the President determines it to be important to the national interests of the United States and so certifies to the appropriate congressional committees, the President, on such terms and conditions as the President may determine, is authorized to direct any department, agency, or other entity of the United States to furnish the Broadcasting Board of Governors with such assistance as may be necessary to provide international broadcasting activities of the United States with a surge capacity to support United States foreign policy objectives during a crisis abroad.

''(2) SUPERSEDES EXISTING LAW.—The authority of paragraph (1) supersedes any other provision of law.

''(3) SURGE CAPACITY DEFINED.—In this subsection, the term 'surge capacity' means the financial and technical resources necessary to carry out broadcasting activities in a geographical area during a crisis.

''(b) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—Effective October 1, 2004, there are authorized to be appropriated to the President such amounts as may be necessary for the President to carry out this section, except that no such amount may be appropriated which, when added to amounts previously appropriated for such purpose but not yet obligated, would cause such amounts to exceed $25,000,000.

''(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations in this subsection are authorized to remain available until expended.

''(3) DESIGNATION OF APPROPRIATIONS.—Amounts appropriated pursuant to the authorization of appropriations in this subsection may be referred to as the 'United States International Broadcasting Surge Capacity Fund'.''.

SEC. 4. REPORT.

In each annual report submitted under section 305(a)(9) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6204(a)(9)) after the date of enactment of this Act, the Broadcasting Board of Governors shall give special attention to reporting on the activities carried out under this Act.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to amounts otherwise available for such purposes, the following amounts are authorized to be appropriated to carry out United States Government broadcasting activities under the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.), the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.), the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted in division of G of the

Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 107–277), and this Act, and to carry out other authorities in law consistent with such purposes:

(1) INTERNATIONAL BROADCASTING OPERATIONS.—For ''International Broadcasting Operations'', $497,000,000 for the fiscal year 2005.

(2) BROADCASTING CAPITAL IMPROVEMENTS.—For ''Broadcasting Capital Improvements'', $70,000,000 for the fiscal year 2005.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations in this section are authorized to remain available until expended.

By Mrs. HUTCHISON (for herself, Mr. BAYH, and Mr. KENNEDY):

S. 2876. A bill to amend title XVIII of the Social Security Act to eliminate reductions in payments to hospitals for the indirect costs of medical education; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I am pleased to introduce legislation today to restore Medicare reimbursement to hospitals. I introduce the American Hospital Preservation Act with my colleague, Senator BAYH, to restore reimbursement for indirect medical education (IME) payments to teaching hospitals. IME payments give teaching hospitals an additional Medicare reimbursement due to their higher costs of inpatient care. The Medicare Modernization Act restored the reimbursement rate to 6 percent for fiscal year 2004. However this payment update expires today. Over the next 3 years, reimbursements to teaching hospitals will decrease, making it more difficult to care for our sick and to train our future health care providers. The American Hospital Preservation Act would fix the reimbursement rate at 6.0 and will ensure our hospitals are compensated for the invaluable care they provide to our patients.

Hospital admissions have risen from 31 million patients in 1990 to 33 million in 2000, and the number of days in the hospital is rising as well. Increased admissions, rising liability premiums, and the cost of advanced technology have forced hospitals to cut back on services. The cost of a pint of blood increased 31 percent in 2001, an additional $920 million burden to hospitals. Such costs are continuing to rise, yet Medicare reimbursements to hospitals are not keeping pace with inflation and their margins are slowly shrinking. Fifty-eight percent of hospitals are losing money on the Medicare patients they treat.

Teaching hospitals have higher costs due to their critical role in educating tomorrow's physicians. They run more tests, utilize newer technology and require more staff because they are training our future health professionals. Preserving this reimbursement rate is vital to continuing this training. Although only 23 percent of all hospitals are teaching hospitals, they deliver over two-thirds of charity care. Many patients rely on these hospitals for their health, which make-up 78 percent of all trauma centers and 80 percent of all burn beds. Further, a disproportionate percentage of the most seriously ill and injured patients are treated and convalesce in teaching hospitals. Emergency rooms are increasingly used as a primary care clinic because patients cannot find a physician who accepts Medicare, and they treat more individuals who are uninsured. In 2000, hospitals provided $21.6 billion in uncompensated care.

Lower reimbursement rates coupled with bioterrorism risks and a workforce shortage make our hospitals a time bomb waiting to go off. It is our responsibility to ensure they have adequate resources.

I look forward to working with my colleagues to pass the American Hospital Preservation Act.

By Mr. GREGG (for himself, Mr. BOND, and Mr. GRAHAM of South Carolina):

S. 2877. A bill to reduce the special allowance for loans from the proceeds of tax exempt issues, and to provide additional loan forgiveness for teachers who teach mathematics, science, or special education; to the Committee on Health, Education, Labor, and Pensions.

Mr. GREGG. Mr. President, in recent days, much ink has been spilled and much rhetoric bandied about on the subject of the 8.5 percent interest rate on student loans the Federal Government guarantees to a handful of lenders. We all agree that this loophole, which results in windfall profits to some lenders and banks, should be ended.

Only recently have my colleagues on the other side of the aisle even acknowledged that this was a problem. It should be noted, that Democrats not only created and protected this flawed policy during the Clinton administration they failed to correct the problem when they were in the majority.

Republicans have repeatedly demonstrated a commitment to ending the exploitation of the 9.5 percent interest rate guarantee. The President submitted a budget in February that closed the loophole. House Republicans introduced a higher education bill in May that also would close the loophole. But Democrats showed no interest in moving either of those pieces of legislation. Instead, they have recently offered a series of misguided, ineffectual attempts to close the loophole. The Kildee amendment that passed the House did not close the loophole—a fact even Senate Democrats acknowledge. That amendment prohibited discretionary funds from being used to administer the 9.5 percent payments or for the payments themselves. The fact that such payments are made with mandatory funds under the Higher Education Act renders the amendment powerless.

Similarly, Senator MURRAY's amendment that was rejected at the Labor-HHS-Education markup failed to close the loophole for several reasons. Her amendment would have allowed lenders to transfer loans within their portfolio to continue to receive the 9.5 percent guarantee, a practice explicitly criticized in the GAO report on this issue. Worse, her amendment would have spent more money than it generated by converting savings that accrue over 10 years into discretionary expenditures to be spent in a single year, 2005.

Senator MURRAY's amendment would also have jeopardized student benefits nationwide by preventing nonprofit lenders, which are required to pour any extra Federal funds they receive back into the student loan program, from legitimately receiving the guarantee. In other words, her amendment would have led to increased interest rates and origination fees for student borrowers, and the elimination of loan forgiveness programs for nurses, teachers, and public safety officers.

The potential damage did not end there. Because Senator MURRAY's amendment would have disrupted contractual obligations between the Federal Government and lenders and note holders, it could have exposed the Department of Education to costly litigation and risk a court order requiring the payments to be restored.

Clearly, efforts to end the loophole have been unproductive or worse thus far. Today, I hope to transform the debate by introducing the Taxpayer-Teacher Protection Act of 2004, along with my colleagues, Senators BOND and GRAHAM, and Representative BOEHNER in the House. This legislation will close the loophole for one year and direct the resulting savings toward the expansion of teacher loan forgiveness programs for math, science and special education teachers in schools with large numbers of disadvantaged students, without cutting student benefits enjoyed by borrowers who receive loans from nonprofit lenders.

Specifically, the bill would protect taxpayers by shutting down the loophole in 2005 in a way that immediately halts the high subsidies for refunding, transfers of loans from tax-exempt to taxable bonds and other related transactions. It puts lenders and note holders on notice that Congress will permanently and quickly phase out all other aspects of the 9.5 percent guarantee without putting the federal government in jeopardy of costly litigation. The bill protects student benefits provided by non-profit lenders, including 0 percent interest rate student loans for on-time completion, lower interest rates for certain students and loan forgiveness for teachers, nurses and public safety personnel.

The bill invests the related savings to more than triple teacher loan forgiveness to $17,500 for teachers of math, science, and special education—disciplines where there are widespread shortages, particularly in the inner city and rural communities—who teach in high-need schools districts for five years, and who meet the No Child Left Behind definition of a highly qualified

teacher. Such loan forgiveness provides an important recruiting tool for local districts to fill teacher shortages, and rewards teachers who teach disadvantaged children and children with disabilities, while preparing the students in the areas of math and science that are so critical to our security and prosperity as a nation.

The President recently sent us a letter reiterating his desire that Congress act quickly to enact legislation to close the loophole. I urge my colleagues who are serious about ending this loophole to join me in supporting the Taxpayer-Teacher Protection Act of 2004, so that we can send it to the President's desk without delay, and send our dollars where they belong—benefiting students.

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. 2877

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Taxpayer-Teacher Protection Act of 2004''.

SEC. 2. REDUCTION OF THE SPECIAL ALLOWANCE FOR LOANS FROM THE PROCEEDS OF TAX EXEMPT ISSUES.

Section 438(b)(2)(B) of the Higher Education Act of 1965 (20 U.S.C. 1087–1(b)(2)(B)) is amended—

(1) in clause (i), by striking ''this division'' and inserting ''this clause'';

(2) in clause (ii), by striking ''division (i) of this subparagraph'' and inserting ''clause (i) of this subparagraph'';

(3) in clause (iv), by inserting ''or refunded on or after October 1, 2004 and before October 1, 2005,'' after ''October 1, 1993,''; and

(4) by adding at the end the following new clause:

''(v) Notwithstanding clauses (i) and (ii), the quarterly rate of the special allowance shall be the rate determined under subparagraph (A), (E), (F), (G), (H), or (I) of this paragraph, or paragraph (4), as the case may be, for a holder of loans that—

''(I) were made or purchased with funds—

''(aa) obtained from the issuance of obligations the income from which is excluded from gross income under the Internal Revenue Code of 1986 and which obligations were originally issued before October 1, 1993; or

''(bb) obtained from collections or default reimbursements on, or interests or other income pertaining to, eligible loans made or purchased with funds described in division (aa), or from income on the investment of such funds; and

''(II) were—

''(aa) financed by such an obligation that has matured, or been retired or defeased;

''(bb) refinanced on or after October 1, 2004 and before October 1, 2005, with funds obtained from a source other than funds described in subclause (I) of this clause; or

''(cc) sold or transferred to any other holder on or after October 1, 2004 and before October 1, 2005.''.

SEC. 3. LOAN FORGIVENESS FOR TEACHERS.

(a) IMPLEMENTING HIGHLY QUALIFIED TEACHER REQUIREMENTS.—

(1) AMENDMENTS.—

(A) FFEL LOANS.—Section 428J(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078–10(b)(1)) is amended—

(i) in subparagraph (A), by inserting ''and'' after the semicolon; and

(ii) by striking subparagraphs (B) and (C) and inserting the following:

''(B) if employed as an elementary school or secondary school teacher, is highly qualified as defined in section 9101 of the Elementary Secondary Education Act of 1965; and''.

(B) DIRECT LOANS.—Section 460(b)(1)(A) of the Higher Education Act of 1965 (20 U.S.C. 1087j(b)(1)(A)) is amended—

(i) in clause (i), by inserting ''and'' after the semicolon; and

(ii) by striking clauses (ii) and (iii) and inserting the following:

''(ii) if employed as an elementary school or secondary school teacher, is highly qualified as defined in section 9101 of the Elementary and Secondary Education Act of 1965; and''.

(2) TRANSITION RULE.—

(A) RULE.—The amendments made by paragraph (1) of this subsection to sections 428J(b)(1) and 460(b)(1)(A) of the Higher Education Act of 1965 shall not be applied to disqualify any individual who, before the date of enactment of this Act, commenced service that met and continues to meet the requirements of such sections as such sections were in effect on the day before the date of enactment of this Act.

(B) RULE NOT APPLICABLE TO INCREASED QUALIFIED LOAN AMOUNTS.—Subparagraph (A) of this paragraph shall not apply for purposes of obtaining increased qualified loan amounts under sections 428J(c)(3) and 460(c)(3) of the Higher Education Act of 1965 as added by subsection (b) of this section.

(b) ADDITIONAL AMOUNTS ELIGIBLE TO BE REPAID.—

(1) FFEL LOANS.—Section 428J(c) of the Higher Education Act of 1965 (20 U.S.C. 1078–10(c)) is amended by adding at the end the following:

''(3) ADDITIONAL AMOUNTS FOR TEACHERS IN MATHEMATICS, SCIENCE, OR SPECIAL EDUCATION.—Notwithstanding the amount specified in paragraph (1), the aggregate amount that the Secretary shall repay under this section shall be not more than $17,500 in the case of—

''(A) a secondary school teacher—

''(i) who meets the requirements of subsection (b); and

''(ii) whose qualifying employment for purposes of such subsection is teaching mathematics or science on a full-time basis; and

''(B) an elementary school or secondary school teacher—

''(i) who meets the requirements of subsection (b);

''(ii) whose qualifying employment for purposes of such subsection is as a special education teacher whose primary responsibility is to provide special education to children with disabilities (as those terms are defined in section 602 of the Individuals with Disabilities Education Act); and

''(iii) who, as certified by the chief administrative officer of the public or non-profit private elementary school or secondary school in which the borrower is employed, is teaching children with disabilities that corresponds with the borrower's special education training and has demonstrated knowledge and teaching skills in the content areas of the elementary school or secondary school curriculum that the borrower is teaching.''.

(2) DIRECT LOANS.—Section 460(c) of the Higher Education Act of 1965 (20 U.S.C. 1087j(c)) is amended by adding at the end the following:

''(3) ADDITIONAL AMOUNTS FOR TEACHERS IN MATHEMATICS, SCIENCE, OR SPECIAL EDUCATION.—Notwithstanding the amount specified in paragraph (1), the aggregate amount that the Secretary shall cancel under this section shall be not more than $17,500 in the case of—

''(A) a secondary school teacher—

''(i) who meets the requirements of subsection (b)(1); and

''(ii) whose qualifying employment for purposes of such subsection is teaching mathematics or science on a full-time basis; and

''(B) an elementary school or secondary school teacher—

''(i) who meets the requirements of subsection (b)(1);

''(ii) whose qualifying employment for purposes of such subsection is as a special education teacher whose primary responsibility is to provide special education to children with disabilities (as those terms are defined in section 602 of the Individuals with Disabilities Education Act); and

''(iii) who, as certified by the chief administrative officer of the public or non-profit private elementary school or secondary school in which the borrower is employed, is teaching children with disabilities that corresponds with the borrower's special education training and has demonstrated knowledge and teaching skills in the content areas of the elementary school or secondary school curriculum that the borrower is teaching.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply only with respect to eligible individuals who are new borrowers on or after October 1, 1998, and before October 1, 2005.

By Mr. CAMPBELL:

S. 2878. A bill to amend the Hoopa-Yurok Settlement Act to provide for the acquisition of land for the Yurok Reservation and an increase in economic development beneficial to the Hoopa Valley Tribe and the Yurok Tribe, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am pleased to introduce The Hoopa-Yurok Settlement Amendment Act of 2004, a bill that would provide for the acquisition of land for the Yurok Reservation and an increase in economic development beneficial to the Hoopa Valley Tribe and Yurok Tribe in the State of California. This bill is introduced at the request of the Hoopa Valley Tribe and the Yurok Tribe, and is for discussion purposes only.

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. 2878

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Hoopa-Yurok Settlement Amendment Act of 2004''.

SEC. 2. ACQUISITION OF LAND FOR THE YUROK RESERVATION.

Section 2(c) of the Hoopa-Yurok Settlement Act (25 U.S.C. 1300i–1(c)) is amended by adding at the end the following:

''(5) LAND ACQUISITION.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Secretary and the Secretary of Agriculture shall—

''(i) in consultation with the Yurok Tribe, identify Federal and private land available from willing sellers within and adjacent to

or in close proximity to the Yurok Reservation in the aboriginal territory of the Yurok Tribe (excluding any land within the Hoopa Valley Reservation) as land that may be considered for inclusion in the Yurok Reservation;

''(ii) negotiate with the Yurok Tribe to determine, from the land identified under clause (i), a land base for an expanded Yurok Reservation that will be adequate for economic self-sufficiency and the maintenance of religious and cultural practices;

''(iii) jointly with the Yurok Tribe, provide for consultation with local governments, and other parties whose interests are directly affected, concerning the potential sale or other transfer of land to the Yurok Tribe under this Act;

''(iv) submit to Congress a report identifying any parcels of land within their respective jurisdictions that are determined to be within the land base negotiated under clause (ii); and

''(v) not less than 60 days after the date of submission of the report under clause (iv), convey to the Secretary in trust for the Yurok Tribe the parcels of land within their respective jurisdictions that are within that land base.

''(B) ACCEPTANCE IN TRUST.—The Secretary shall—

''(i) accept in trust for the Yurok Tribe the conveyance of such private land as the Yurok Tribe, or the United States on behalf of the Yurok Tribe, may acquire from willing sellers, by exchange or purchase; and

''(ii) provide for the expansion of the Yurok Reservation boundaries to reflect the conveyances.

''(C) FUNDING.—Notwithstanding any other provision of law, from funds made available to carry out this Act, the Secretary may use $2,500,000 to pay the costs of appraisals, surveys, title reports, and other requirements relating to the acquisition by the Yurok Tribe of private land under this Act (excluding land within the boundaries of the Hoopa Valley Reservation).

''(D) REPORT.—

''(i) IN GENERAL.—Not later than 90 days after the date of submission of the report under subparagraph (A)(iv), the Secretary, in consultation with the Secretary of Agriculture relative to the establishment of an adequate land base for the Yurok Tribe, shall submit to Congress a report that describes—

''(I) the establishment of an adequate land base for the Yurok Tribe and implementation of subparagraph (A);

''(II) the sources of funds remaining in the Settlement Fund, including the statutory authority for such deposits and the activities, including environmental consequences, if any, that gave rise to those deposits; and

''(III) disbursements made from the Settlement Fund;

''(IV) the provision of resources, reservation land, trust land, and income-producing assets including, to the extent data are available (including data available from the Hoopa Valley Tribe and the Yurok Tribe), the environmental condition of the land and income-producing assets, infrastructure, and other valuable assets; and

''(V) to the extent data are available (including data available from the Hoopa Valley Tribe and the Yurok Tribe), the unmet economic, infrastructure, and land needs of each of the Hoopa Valley Tribe and the Yurok Tribe.

''(ii) LIMITATION.—No expenditures for any purpose shall be made from the Settlement Fund before the date on which, after receiving the report under clause (i), Congress enacts a law authorizing such expenditures, except as the Hoopa Valley Tribe and Yurok Tribes may agree pursuant to their respective constitutional requirements.

''(6) CLAIMS.—

''(A) IN GENERAL.—The Court of Federal Claims shall hear and determine all claims of the Yurok Tribe or a member of the Yurok Tribe against the United States asserting that the alienation, transfer, lease, use, or management of land or natural resources located within the Yurok Reservation violates the Constitution, laws, treaties, Executive orders, regulations, or express or implied contracts of the United States.

''(B) CONDITIONS.—A claim under subparagraph (A) shall be heard and determined—

''(i) notwithstanding any statute of limitations (subject to subparagraph (C)) or any claim of laches; and

''(ii) without application of any setoff or other claim reduction based on a judgment or settlement under the Act of May 18, 1928 (25 U.S.C. 651 et seq.) or other laws of the United States.

''(C) LIMITATION.—A claim under subparagraph (A) shall be brought not later than 10 years after the date of enactment of this paragraph.''.

SEC. 3. JURISDICTION.

(a) LAW ENFORCEMENT AND TRIBAL COURT FUNDS AND PROGRAMS.—Section 2(f) of the Hoopla-Yurok Settlement Act (25 U.S.C. 1300i–1(f)) is amended—

(1) by striking ''The Hoopa'' and inserting the following:

''(1) IN GENERAL.—The Hoopa'';

(2) by striking the semicolon after ''Code'' the first place it appears and inserting a comma; and

(3) by adding at the end the following:

''(2) LAW ENFORCEMENT AND TRIBAL COURT FUNDS AND PROGRAMS.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), Federal law enforcement and tribal court funds and programs shall be made available to the Hoopa Valley Tribe and Yurok Tribe on the same basis as the funds and programs are available to Indian tribes that are not subject to the provisions of law referred to in paragraph (1).

''(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for Yurok law enforcement and tribal court programs $1,000,000 for each fiscal year.''.

(b) RECOGNITION OF THE YUROK TRIBE.—Section 9 of the Hoopa-Yurok Settlement Act (25 U.S.C. 1300i–8) is amended by adding at the end the following:

''(f) RECOGNITION OF THE YUROK TRIBE.—The authority of the Yurok Tribe over its territories as provided in the constitution of the Yurok Tribe as of the date of enactment of this subsection are ratified and confirmed insofar as that authority relates to the jurisdiction of the Yurok Tribe over persons and land within the boundaries of the Yurok Reservation.''.

(c) YUROK RESERVATION RESOURCES.—Section 12 of the Hoopa Yurok Settlement Act (102 Stat. 2935) is amended by adding at the end the following:

''(c) KLAMATH RIVER BASIN FISHERIES.—

''(1) IN GENERAL.—The Secretary and the Secretary of Agriculture shall enter into stewardship agreements with the Yurok Tribe with respect to management of Klamath River Basin fisheries and water resources.

''(2) EFFECT OF PARAGRAPH.—Nothing in paragraph (1) provides the Yurok Tribe with any jurisdiction within the Hoopa Valley Reservation.

''(d) MANAGEMENT AUTHORITY.—

''(1) DEFINITION OF COMANANGEMENT AUTHORITY.—In this subsection, the term 'management authority' means the right to make decisions jointly with the Secretary or the Secretary of Agriculture, as the case may be, with respect to the natural resources and sacred and cultural sites described in paragraph (2).

''(2) GRANT OF MANAGEMENT AUTHORITY.—There is granted to the Yurok Tribe management authority over all natural resources, and over all sacred and cultural sites of the Yurok Tribe within their usual and accustomed places, that are on land remaining under the jurisdiction of the National Park Service, Forest Service, or Bureau of Land Management within the aboriginal territory of the Yurok Tribe.

''(e) SUBSISTENCE.—

''(1) IN GENERAL.—There is granted access for subsistence hunting, fishing, and gathering rights for members of the Yurok Tribe over all land and water within the aboriginal territory of the Yurok Tribe that remain under the jurisdiction of the Yurok Tribe or the United States, excluding any land within the Hoopa Valley Reservation.

''(2) CONDITION.—All subsistence-related activities under paragraph (1) shall be conducted in accordance with management plans developed by the Yurok Tribe.''.

SEC. 4. BASE FUNDING.

From amounts made available to the Secretary for new tribes funding, the Secretary shall make an adjustment in the base funding for the Yurok Tribe based on the enrollment of the Yurok Tribe as of the date of enactment of this Act.

SEC. 5. YUROK INFRASTRUCTURE DEVELOPMENT.

(a) IN GENERAL.—There are authorized to be appropriated—

(1) $20,000,000 for the upgrade and construction of Bureau of Indian Affairs and tribal roads on the Yurok Reservation;

(2) for each fiscal year, $500,000 for the operation of a road maintenance program for the Yurok Tribe;

(3) $3,500,000 for purchase of equipment and supplies for the Yurok Tribe road maintenance program;

(4) $7,600,000 for the electrification of the Yurok Reservation;

(5) $2,500,000 for telecommunication needs on the Yurok Reservation;

(6) $18,000,000 for the improvement and development of water and wastewater treatment systems on the Yurok Reservation;

(7) $6,000,000 for the development and construction of a residential care, drug and alcohol rehabilitation, and recreational complex near Weitchpec;

(8) $7,000,000 for the construction of a cultural center for the Yurok Tribe;

(9) $4,000,000 for the construction of a tribal court, law enforcement, and detention facility in Klamath;

(10) $10,000,000 for the acquisition or construction of at least 50 homes for Yurok Tribe elders;

(11) $3,200,000 for the development and initial startup cost for a Yurok School District; and

(12) $800,000 to supplement Yurok Tribe higher education need.

(b) PRIORITY.—Congress—

(1) recognizes the unsafe and inadequate condition of roads and major transportation routes on and to the Yurok Reservation; and

(2) identifies as a priority that those roads and major transportation routes be upgraded and brought up to the same standards as transportation systems throughout the State of California.

SEC. 6. YUROK ECONOMIC DEVELOPMENT.

There are authorized to be appropriated—

(1) $20,000,000 for the construction of an ecolodge and associated costs;

(2) $1,500,000 for the purchase of equipment to establish a gravel operation; and

(3) $6,000,000 for the purchase and improvement of recreational and fishing resorts on the Yurok Reservation.

SEC. 7. BLM LAND.

(a) CONVEYANCE TO THE YUROK TRIBE.—The following parcels of Bureau of Land Management land within the aboriginal territory of the Yurok Tribe are conveyed in trust status to the Yurok Tribe:

(1) T. 9N., R. 4E, HUM, sec. 1.
(2) T. 9N., R. 4E, sec. 7.
(3) T. 9N., R. 4E., sec. 8, lot 3.
(4) T. 9N., R. 4E., sec. 9, lots 19 and 20.
(5) T. 9N., R. 4E., sec. 17, lots 3 through 6.
(6) T. 9N., R. 4E., sec. 18, lots 7 and 10.
(7) T. 9N., R. 3E., sec. 13, lots 8 and 12.
(8) T. 9N., R. 3E, sec. 14, lot 6.

(b) CONVEYANCE TO THE HOOPA VALLEY TRIBE.—The following parcels of Bureau of Land Management land along the western boundaries of the Hoopa Valley Reservation are conveyed in trust status to the Hoopa Valley Tribe:

(1) T. 9N, R. 3E., sec. 23, lots 7 and 8.
(2) T. 9N., R. 3E., sec. 26, lots 1 through 3.
(3) T. 7N., R. 3E., sec. 7, lots 1 and 6.
(4) T. 7N., R. 3E., sec. 1.

SEC. 8. REPEAL OF OBSOLETE PROVISIONS.

Section 2(c)(4) of the Hoopa-Yurok Settlement Act (25 U.S.C. 1300i–1(c)(4)) is amended by striking ''The—'' and all that follows through ''shall not be'' and inserting ''The apportionment of funds to the Yurok Tribe under sections 4 and 7 shall not be''.

SEC. 9. VOTING MEMBER.

Section 3(c) of the Klamath River Basin Fisheries Restoration Act (16 U.S.C. 460ss–2(c)) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6); and

(2) by striking paragraph (3) and inserting the following:

''(3) A representative of the Yurok Tribe who shall be appointed by the Yurok Tribal Council.

''(4) A representative of the Department of the Interior who shall be appointed by the Secretary.''.

SEC. 10. ECONOMIC SELF-SUFFICIENCY.

Section 10 of the Hoopa-Yurok Settlement Act (25 U.S.C. 1300i–9) is amended by striking subsection (a) and inserting the following:

''(a) PLAN FOR ECONOMIC SELF-SUFFICIENCY.—

''(1) NEGOTIATIONS.—Not later than 30 days after the date of enactment of the Hoopa-Yurok Settlement Amendment Act of 2004, the Secretary shall enter into negotiations with the Yurok Tribe to establish a plan for the economic self-sufficiency of the Yurok Tribe, which shall be completed not later than 18 months after the date of enactment of the Hoopa-Yurok Settlement Amendment Act of 2004.

''(2) SUBMISSION TO CONGRESS.—On the approval of the plan by the Yurok Tribe, the Secretary shall submit the plan to Congress.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $3,000,000 to establish the Yurok Tribe Self-Sufficiency Plan.''.

SEC. 11. EFFECT OF ACT.

Nothing in this Act or any amendment made by this Act limits the existing rights of the Hoopa Valley Tribe or the Yurok Tribe Tribe.

By Mr. CAMPBELL:

S. 2879. A bill to restore recognition to the Winnemem Wintu Indian Tribe of California; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am pleased to introduce ''The Winnemem Wintu Tribe Clarification and Restoration Act,'' a bill that would clarify the status of the Winnemem Wintu Tribe of northern California. I am introducing this bill, at the request of the tribe, primarily to initiate a discussion of the tribe's status among all the interested parties, including the tribe, local communities, and the tribe's congressional delegation.

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. 2879

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Winnemem Wintu Tribe Clarification and Restoration Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Winnemem Wintu Indian Tribe was entitled to have been included in the 1979 acknowledgement process that created a list of federally recognized California tribes;

(2) in addition to its continuous historic relationship with the Federal Government, the trust status of the Tribe was reaffirmed by the provisions of the Act of July 30, 1941 (55 Stat. 612, chapter 334), which granted to the United States all tribal and allotted Indian land within the area embraced by the Central Valley Project;

(3) under that Act, the Secretary, acting through the Commissioner of Reclamation, on January 5, 1942, created the Shasta Reservoir Indian Cemetery, which contains Winnemem Wintu remains, markers, and other appurtenances held in trust by the United States;

(4) Winnemem Wintu remains were removed to that cemetery from the traditional cemetery of the Tribe in the McCloud River valley that was flooded by the Shasta Reservoir;

(5) the Bureau of Reclamation informed the Area Director of the Indian Service in writing on December 22, 1942, of the new cemetery and its status as Federal trust land;

(6) the Secretary, through an administrative oversight or inaction of the Indian Service, overlooked the trust status of the Tribe, which was reaffirmed by the making of partial restitution by the Secretary for the taking of tribal land and the 1941 relocation of the remains of tribal members, which remain interred in the Shasta Reservoir Indian Cemetery;

(7) the ongoing trust relationship of the Tribe with the Federal Government should have been recognized by the Secretary, and the Tribe should have been included in the 1979 listing of federally recognized California tribes; and

(8) the Tribe, as a matter of sovereign choice, has determined that the conduct of gaming by the Tribe would be detrimental to the maintenance of its traditional tribal culture.

SEC. 3. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) SERVICE AREA.—The term ''service area'' means the counties of Shasta and Siskiyou, California.

(3) TRIBE.—The term ''Tribe'' means the Indians of the Winnemem Wintu Tribe of northern California.

SEC. 4. CLARIFICATION OF FEDERAL STATUS AND RESTORATION OF FEDERAL RIGHTS AND PRIVILEGES.

(a) FEDERAL STATUS.—Federal status is restored to the Tribe.

(b) APPLICABLE LAW.—Except as otherwise provided in this Act, all laws (including regulations) of general applicability to Indians and nations, tribes, or bands of Indians that are not inconsistent with any provision of this Act shall be applicable to the Tribe and members of the Tribe.

(c) RESTORATIONS OF RIGHTS AND PRIVILEGES.—Except as provided in subsection (d), all rights and privileges of the Tribe and members of the Tribe under any Federal treaty, Executive order, agreement, or statute, or under any other authority that were diminished or lost under Public Law 85–671 (72 Stat. 619) are restored, and that Act shall be inapplicable to the Tribe or members of the Tribe after the date of enactment of this Act.

(d) FEDERAL SERVICES AND BENEFITS.—

(1) ELIGIBILITY.—

(A) IN GENERAL.—Without regard to the existence of a reservation, the Tribe and its members shall be eligible, on and after the date of enactment of this Act, for all Federal services and benefits furnished to federally recognized Indian tribes or their members.

(B) RESIDING ON A RESERVATION.—For the purposes of Federal services and benefits available to members of federally recognized Indian tribes residing on a reservation, members of the Tribe residing in the service area shall be deemed to be residing on a reservation.

(2) RELATION TO OTHER LAWS.—The eligibility for or receipt of services and benefits under paragraph (1) by the Tribe or a member of the Tribe shall not be considered as income, resources, or otherwise when determining the eligibility for or computation of any payment or other benefit to the Tribe or member under—

(A) any financial aid program of the United States, (including grants and contracts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.); or

(B) any other benefit to which the Tribe or member would otherwise be entitled under any Federal or federally assisted program.

(e) HUNTING, FISHING, TRAPPING, GATHERING, AND WATER RIGHTS.—Nothing in this Act expands, reduces, or otherwise affects in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and members of the Tribe.

(f) CERTAIN RIGHTS NOT ALTERED.—Except as specifically provided in this Act, nothing in this Act alters any property right or obligation, any contractual right or obligation, or any obligation for taxes levied.

SEC. 5. RESERVATION OF THE TRIBE.

Not later than 1 year after the date of enactment of this Act, the Secretary shall take the 42.5-acre site presently occupied by the Tribe into trust for the benefit of the Tribe, and that land shall be the reservation of the Tribe.

SEC. 6. GAMING.

The Tribe shall not have the right to conduct gaming (within the meaning of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 139—DIRECTING THE ARCHITECT OF THE CAPITOL TO ESTABLISH A TEMPORARY EXHIBIT IN THE ROTUNDA OF THE CAPITOL TO HONOR THE MEMORY OF MEMBERS OF THE UNITED STATES ARMED FORCES WHO HAVE LOST THIR LIVES IN OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM

Mr. LAUTENBERG submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 139

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. EXHIBIT IN ROTUNDA OF THE CAPITOL IN HONOR OF MEMBERS OF ARMED FORCES KILLED IN IRAQ AND AFGHANISTAN.

(a) ESTABLISHMENT OF TEMPORARY EXHIBIT.—During the period beginning on October 1, 2004, and ending on November 30, 2004, the Architect of the Capitol shall display in the rotunda of the Capitol an exhibit to honor the memory of members of the United States Armed Forces who have lost their lives in Operation Iraqi Freedom and Operation Enduring Freedom.

(b) FORM OF EXHIBIT.—The exhibit displayed under this section shall be in such form and contain such material as the Architect may select, so long as—

(1) the exhibit displays the name, photograph, and biographical information with respect to each individual member of the United States Armed Forces who has lost his or her life in the Operations referred to in subsection (a); and

(2) the exhibit provides an opportunity for visitors to write messages of support and sympathy to the families of the individuals represented in the exhibit and to have those messages transmitted to the families.

Mr. LAUTENBERG. Mr. President, I rise today to submit a concurrent resolution that allows for a temporary display in the Capitol Rotunda memorializing the soldiers lost in Iraq and Afghanistan. I can think of no greater tribute to the families of those who died for our country than to honor their memories right here in the Capitol Building.

This temporary memorial would provide pictures and biographical information for each serviceman and servicewoman who has died in Operation Iraqi Freedom and Operation Enduring Freedom. Also, it would include space for people visiting the Capitol to write notes and tributes to be shared with the families so they know that their loved ones will always be in our thoughts and prayers.

To date, the United States has lost 1,409 soldiers in Iraq, and 138 in Afghanistan. There are currently 150,500 active duty and reserve forces in Iraq and Afghanistan combined—135,000 in Iraq and 15,500 in Afghanistan—including 3,709 from New Jersey.

The Capitol Rotunda is the symbolic heart of the United States Capitol and our Nation's democracy, and it is visited by thousands of people each day. The Rotunda has long been considered an ideal setting for important ceremonial events, including state funerals for presidents from Abraham Lincoln to Lyndon Johnson, distinguished Members of Congress, military heroes, and eminent citizens. The Rotunda is filled with portraits and sculptures reminding Americans of past battles and more modern achievements. Eight framed niches hold large historical paintings—four revolutionary period scenes and four scenes of early exploration.

There is precedence for a memorial to fallen heroes in the Capitol Rotunda. Beginning in 1921, the Capitol Rotunda was used to honor the Unknown Soldier who lost his life serving in World War I. Memorials to the Unknown Soldier from World War II, the Korean War, and the Vietnam War followed. In addition, in 1989, an official POW/MIA flag was installed in the U.S. Capitol Rotunda, where it remains today, as a result of legislation passed overwhelmingly during the 100th Congress.

This memorial builds upon congressional action of the past and presents an opportunity for the United States Congress to thank our fallen soldiers and their families. I urge my colleagues to join me in this endeavor.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3794. Mr. GRAHAM, of Florida 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.

SA 3795. Mr. HOLLINGS (for himself, Mr. STEVENS, Mr. INOUYE, and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3796. Mr. KYL (for himself, Mr. CHAMBLISS, and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3797. Mr. GRAHAM, of Florida proposed an amendment to the bill S. 2845, supra.

SA 3798. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3799. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3800. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3801. Mr. KYL (for himself and Mr. CHAMBLISS) proposed an amendment to the bill S. 2845, supra.

SA 3802. Mr. LAUTENBERG (for himself, Mrs. CLINTON, Mr. FEINGOLD, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3803. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3804. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3805. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3806. Mr. MCCAIN (for himself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, supra.

SA 3807. Mr. MCCAIN (for himself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, supra.

SA 3808. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3809. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3810. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3811. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3812. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3813. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3814. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3815. Mr. ROCKEFELLER (for himself, Mrs. HUTCHISON, Mr. ROBERTS, and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3816. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3817. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1728, to amend the September 11th Victim Compensation Fund of 2001 (Public Law 107–42; 49 U.S.C. 40101 note) to provide compensation for the United States Citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. *Cole* on October 12, 2000, or the attack on the World Trade Center on February 26, 1993, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001; which was referred to the Committee on the Judiciary.

SA 3818. 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.

SA 3819. Mr. ENSIGN (for himself, Mr. KYL, Mr. CHAMBLISS, Mr. CORNYN, Mr. GRASSLEY, and Mr. SESSIONS) submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3820. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3821. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3822. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3823. Ms. COLLINS (for Mr. VOINOVICH) proposed an amendment to the bill S. 2845, supra.

SA 3824. Mr. BIDEN (for himself, Mr. SPECTER, and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table .

SA 3825. Mr. LEVIN (for himself and Mr. ALEXANDER) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3826. Mr. STEVENS (for himself, Mr. WARNER, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3827. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3828. Mr. STEVENS (for himself, Mr. INOUYE, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3829. Mr. STEVENS (for himself, Mr. WARNER, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3830. Mr. STEVENS (for himself, Mr. WARNER, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3831. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3832. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3833. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3834. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3835. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3836. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3837. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3838. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3839. Mr. STEVENS (for himself, Mr. WARNER, and Mr. INOUYE) proposed an amendment to the bill S. 2845, supra.

SA 3840. Mr. STEVENS (for himself, Mr. WARNER, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3841. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3842. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3843. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3844. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3845. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3846. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3847. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3848. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3849. Mr. CORZINE (for himself and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3850. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3851. Mr. GRASSLEY (for himself, Mr. CHAMBLISS, and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3852. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3853. Mr. GRASSLEY (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3854. Mr. TALENT submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3855. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3856. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3857. Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3858. Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3859. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3860. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3861. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3862. 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.

SA 3863. Mr. McCAIN (for himself, Mr. BREAUX, Mr. LAUTENBERG, Mr. BIDEN, Mr. SCHUMER, Ms. SNOWE, Mr. HOLLINGS, Mr. CARPER, Mrs. BOXER, Mrs. CLINTON, Mr. ROCKEFELLER, and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3864. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3865. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3866. 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 3867. Mr. LEVIN (for himself and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3868. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3869. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3870. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3871. Mr. SESSIONS (for himself, Mr. CORNYN, Mr. MILLER, and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3872. Mr. SESSIONS (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3873. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3874. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3875. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3876. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3877. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3878. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3879. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3880. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3881. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3882. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3883. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3884. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3885. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3886. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3887. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3888. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3889. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3890. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3891. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3892. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3893. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3894. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3895. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3896. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3897. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3898. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3899. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3900. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3901. 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 3902. Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3903. Mr. STEVENS (for himself, Mr. INOUYE, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3904. Mr. STEVENS (for himself and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3905. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3906. Mr. MCCAIN (for himself, Mr. LIEBERMAN, and Mr. BAYH) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3907. Mr. REID (for Mr. LAUTENBERG) submitted an amendment intended to be proposed by Mr. REID to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3908. Mr. REED (for himself, Mr. SARBANES, Mr. SCHUMER, Mrs. BOXER, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3909. Ms. SNOWE (for herself, Mr. ROBERTS, Ms. MIKULSKI, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3910. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3911. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3912. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3913. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3914. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3915. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3916. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3917. Mr. LEAHY (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3918. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3919. Mr. LEAHY (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3920. Mr. LEAHY (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3921. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3922. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3923. Mr. DURBIN (for himself, Mr. LEAHY, and Mr. SARBANES) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3924. Mr. ROBERTS (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3925. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3926. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3927. 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.

SA 3928. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3929. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3930. Mr. MCCONNELL (for himself and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3931. Mr. MCCONNELL (for himself, Mr. SANTORUM, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3932. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3933. Ms. CANTWELL (for herself, Mr. SESSIONS, Mr. SCHUMER, and Mr. KYL) submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3934. Mr. GREGG submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3935. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3936. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3937. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3938. Mr. HATCH (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3939. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3940. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3941. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3942. Mr. LIEBERMAN (for Mr. MCCAIN (for himself, Mr. LIEBERMAN, and Mr. BAYH)) proposed an amendment to the bill S. 2845, supra.

SA 3943. Mr. INHOFE (for Mr. GREGG (for himself, Mr. HARKIN, Mr. KENNEDY, Mr. ENZI, Mr. REED, Mr. DEWINE, Mrs. CLINTON, Mr. ROBERTS, Mr. BINGAMAN, Mrs. MURRAY, Mr. DASCHLE, and Mr. DODD)) submitted an amendment intended to be proposed by Mr. INHOFE to the bill H.R. 4278, to amend the Assistive Technology Act of 1998 to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes.

SA 3944. Mr. INHOFE (for Mr. LEAHY (for himself and Mr. HATCH)) proposed an amendment to the bill H.R. 2714, to reauthorize the State Justice Institute.

TEXT OF AMENDMENTS

SA 3794. Mr. GRAHAM of Florida 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 94, line 14, insert before the period the following: '', whether expressed in terms of geographic region, in terms of function, or in other terms''.

On page 95, line 3, insert after the period the following: ''Each notice on a center shall set forth the mission of such center, the area of intelligence responsibility of such center, and the proposed structure of such center.''.

On page 96, line 7, insert ''of the center and the personnel of the center'' after ''control''.

On page 96, between lines 8 and 9, insert the following:

(5) If the Director of a national intelligence center determines at any time that the authority, direction, and control of the Director over the center is insufficient to accomplish the mission of the center, the Director shall promptly notify the National Intelligence Director of that determination.

On page 96, strike line 15 and all that follows through page 97, line 2, and insert the following:

(1) develop and unify a strategy for the collection and analysis of all-source intelligence;

(2) integrate intelligence collection and analysis, both inside and outside the United States;

(3) develop interagency plans for the integration of the collection and analysis of all-source intelligence, which plans shall—

(A) involve more than one department, agency, or element of the executive branch (unless otherwise directed by the President); and

(B) include the mission, objectives to be achieved, courses of action, coordination of agencies operational activities, parameters for such courses of action, recommendations for operational plans, and assignment of departmental or agency responsibilities;

(4) ensure that the collection of all-source intelligence and the conduct of operations are informed by the analysis of all-source intelligence; and

On page 99, between lines 20 and 21, insert the following:

(g) REVIEW AND MODIFICATION OF CENTERS.—(1) Not less often than once each year, the National Intelligence Director shall review the area of intelligence responsibility assigned to each national intelligence center under this section in order to determine whether or not such area of responsibility continues to meet intelligence priorities established by the National Security Council.

(2) Not less often than once each year, the National Intelligence Director shall review the staffing and management of each national intelligence center under this section in order to determine whether or not such staffing or management remains appropriate for the accomplishment of the mission of such center.

(3) The National Intelligence Director may at any time recommend to the President a modification of the area of intelligence responsibility assigned to a national intelligence center under this section. The National Intelligence Director shall make any such recommendation through, and with the approval of, the National Security Council.

(h) SEPARATE BUDGET ACCOUNT.—The National Intelligence Director shall, in accordance with procedures to be issued by the Director in consultation with the congressional intelligence committees, include in the National Intelligence Program budget a separate account for each national intelligence center under this section.

On page 99, line 21, strike ''(g)'' and insert ''(i)''.

SA 3795. Mr. HOLLINGS (for himself, Mr. STEVENS, Mr. INOUYE, and Mr. COCHRAN) 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; 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.—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.

SA 3796. Mr. KYL (for himself, Mr. CHAMBLISS, and Mr. DOMENICI) 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 52, strike beginning with line 21 through page 56, line 8.

On page 154, strike beginning with line 8 through page 160, line 11 and insert the following:

(d) FUNCTIONS.—

(1) ADVICE AND COUNSEL ON POLICY DEVELOPMENT AND IMPLEMENTATION.—The Board shall—

(A) review proposed legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the development and adoption of information sharing guidelines under section 205(g);

(B) review the implementation of new and existing legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the implementation of information sharing guidelines under section 205(g); and

(C) advise the President and the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are appropriately considered in the development and implementation of such legislation, regulations, policies, and guidelines.

(2) OVERSIGHT.—The Board shall continually review—

(A) the regulations, policies, and procedures, and the implementation of the regulations, policies, and procedures, of the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are protected;

(B) the information sharing practices of the departments, agencies, and elements of the executive branch to determine whether they appropriately protect privacy and civil liberties and adhere to the information sharing guidelines prescribed under section 205(g) and to other governing laws, regulations, and policies regarding privacy and civil liberties; and

(C) other actions by the executive branch related to efforts to protect the Nation from terrorism to determine whether such actions—

(i) appropriately protect privacy and civil liberties; and

(ii) are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.

(3) TESTIMONY.—The Members of the Board shall appear and testify before Congress upon request.

(e) REPORTS.—

(1) IN GENERAL.—The Board shall periodically submit, not less than semiannually, reports—

(A)(i) to the appropriate committees of Congress, including the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(ii) to the President; and

(B) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

(2) CONTENTS.—Not less than 2 reports submitted each year under paragraph (1)(B) shall include—

(A) a description of the major activities of the Board during the preceding period; and

(B) information on the findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d).

(f) ACCESS TO INFORMATION.—

(1) AUTHORIZATION.—If determined by the Board to be necessary to carry out its responsibilities under this section, the Board is authorized to—

(A) have access from any department, agency, or element of the executive branch, or any Federal officer or employee, to all relevant records, reports, audits, reviews, documents, papers, recommendations, or other relevant material, including classified information consistent with applicable law;

(B) interview, take statements from, or take public testimony from personnel of any

department, agency, or element of the executive branch, or any Federal officer or employee; and

(C) request information or assistance from any State, tribal, or local government.

(2) AGENCY COOPERATION.—Whenever information or assistance requested under subparagraph (A) or (B) of paragraph (1) is, in the judgment of the Board, unreasonably refused or not provided, the Board may submit a request directly to the head of the department, agency, or element concerned.

On page 164, strike beginning with line 21 through page 170, line 8.

SA 3797. Mr. GRAHAM of Florida 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:

On page 94, line 14, insert before the period the following: '', whether expressed in terms of geographic region, in terms of function, or in other terms''.

On page 95, line 3, insert after the period the following: ''Each notice on a center shall set forth the mission of such center, the area of intelligence responsibility of such center, and the proposed structure of such center.''.

On page 96, line 7, insert ''of the center and the personnel of the center'' after ''control''.

On page 96, between lines 8 and 9, insert the following:

(5) If the Director of a national intelligence center determines at any time that the authority, direction, and control of the Director over the center is insufficient to accomplish the mission of the center, the Director shall promptly notify the National Intelligence Director of that determination.

On page 97, between lines 2 and 3 insert the following:

(5) develop and unify strategy for the collection and analysis of all-source intelligence;

(6) integrate intelligence collection and analysis, both inside and outside the United States;

(7) at the discretion of the NID develop interagency plans for the collection of all-source intelligence, which plans shall—

(A) involve more than one department, agency, or element of the executive branch (unless otherwise directed by the President); and

(B) include the mission, objectives to be achieved, courses of action, parameters for such courses of action, coordination of agencies intelligence collection activities, recommendations for intelligence collection plans, and assignment of departmental or agency responsibilities;

(4) ensure that the collection of all-source intelligence and the conduct of operations are informed by the analysis of all-source intelligence; and

On page 99, between lines 20 and 21, insert the following:

(g) REVIEW AND MODIFICATION OF CENTERS.—(1) Not less often than once each year, the National Intelligence Director shall review the area of intelligence responsibility assigned to each national intelligence center under this section in order to determine whether or not such area of responsibility continues to meet intelligence priorities established by the National Security Council.

(2) Not less often than once each year, the National Intelligence Director shall review the staffing and management of each national intelligence center under this section in order to determine whether or not such staffing or management remains appropriate for the accomplishment of the mission of such center.

(3) The National Intelligence Director may at any time recommend to the President a modification of the area of intelligence responsibility assigned to a national intelligence center under this section. The National Intelligence Director shall make any such recommendation through, and with the approval of, the National Security Council.

(h) SEPARATE BUDGET ACCOUNT.—The National Intelligence Director shall, in accordance with procedures to be issued by the Director in consultation with the congressional intelligence committees, include in the National Intelligence Program budget a separate line item for each national intelligence center under this section.

On page 99, line 21, strike ''(g)'' and insert ''(i)''.

SA 3798. Mr. COLEMAN 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:

At the appropriate place, insert the following:

SEC. ___. URBAN AREA COMMUNICATIONS CAPABILITIES.

Section 510 of the Homeland Security Act of 2002, as added by this Act, is amended by inserting '', and shall have appropriate and timely access to the Information Sharing Network described in section 206(c) of the National Intelligence Reform Act of 2004'' after ''each other in the event of an emergency''.

SA 3799. Mr. COLEMAN 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 137, line 20, strike ''and'' and all that follows through ''(9)'' on line 21, and insert the following:

(9) an estimate of training requirements needed to ensure that the Network will be adequately implemented and property utilized;

(10) an analysis of the cost to State, tribal, and local governments and private sector entities for equipment and training needed to effectively utilize the Network; and

(11)

SA 3800. Mr. COLEMAN 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:

At the appropriate place insert the following:

Congress makes the following finding: (1) The United States needs to implement the recommendations of the National Commission on Terrorist Attacks Upon the United States to adopt a unified incident command system and significantly enhance communications connectivity between and among civilian authorities, local first responders, and the National Guard. The unified incident command system should enable emergency managers and first responders to manage, generate, receive, evaluate, share, and use information in the event of a terrorist attack or a significant national disaster.

SA 3801. Mr. KYL (for himself and Mr. CHAMBLISS) 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:

On page 52, strike beginning with line 21 through page 56, line 8.

On page 154, strike beginning with line 8 through page 160, line 11 and insert the following:

(d) FUNCTIONS.—

(1) ADVICE AND COUNSEL ON POLICY DEVELOPMENT AND IMPLEMENTATION.—The Board shall—

(A) review proposed legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the development and adoption of information sharing guidelines under section 205(g);

(B) review the implementation of new and existing legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the implementation of information sharing guidelines under section 205(g); and

(C) advise the President and the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are appropriately considered in the development and implementation of such legislation, regulations, policies, and guidelines.

(2) OVERSIGHT.—The Board shall continually review—

(A) the regulations, policies, and procedures, and the implementation of the regulations, policies, and procedures, of the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are protected;

(B) the information sharing practices of the departments, agencies, and elements of the executive branch to determine whether they appropriately protect privacy and civil liberties and adhere to the information sharing guidelines prescribed under section 205(g) and to other governing laws, regulations, and policies regarding privacy and civil liberties; and

(C) other actions by the executive branch related to efforts to protect the Nation from terrorism to determine whether such actions—

(i) appropriately protect privacy and civil liberties; and

(ii) are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.

(3) TESTIMONY.—The Members of the Board shall appear and testify before Congress upon request.

(e) REPORTS.—

(1) IN GENERAL.—The Board shall periodically submit, not less than semiannually, reports—

(A)(i) to the appropriate committees of Congress, including the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(ii) to the President; and

(B) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

(2) CONTENTS.—Not less than 2 reports submitted each year under paragraph (1)(B) shall include—

(A) a description of the major activities of the Board during the preceding period; and

(B) information on the findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d).

(f) ACCESS TO INFORMATION.—

(1) AUTHORIZATION.—If determined by the Board to be necessary to carry out its responsibilities under this section, the Board is authorized to—

(A) have access from any department, agency, or element of the executive branch, or any Federal officer or employee, to all relevant records, reports, audits, reviews, documents, papers, recommendations, or other relevant material, including classified information consistent with applicable law;

(B) interview, take statements from, or take public testimony from personnel of any department, agency, or element of the executive branch, or any Federal officer or employee; and

(C) request information or assistance from any State, tribal, or local government.

(2) AGENCY COOPERATION.—Whenever information or assistance requested under subparagraph (A) or (B) of paragraph (1) is, in the judgment of the Board, unreasonably refused or not provided, the Board may submit a request directly to the head of the department, agency, or element concerned.

On page 164, strike beginning with line 21 through page 170, line 8.

SA 3802. Mr. LAUTENBERG (for himself, Mrs. CLINTON, Mr. FEINGOLD, and Mr. CORZINE) 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; as follows:

At the appropriate place, insert the following:

SEC. ___. TERRORIST FINANCING.

(a) CLARIFICATION OF CERTAIN ACTIONS UNDER IEEPA.—In any case in which the President takes action under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to prohibit a United States person from engaging in transactions with a foreign country, where a determination has been made by the Secretary of State that the government of that country has repeatedly provided support for acts of international terrorism, such action shall apply to any foreign subsidiaries or affiliate, including any permanent foreign establishment of that United States person, that is controlled in fact by that United States person.

(b) DEFINITIONS.—In this section:

(1) CONTROLLED IN FACT.—The term ''is controlled in fact'' includes—

(A) in the case of a corporation, holds at least 50 percent (by vote or value) of the capital structure of the corporation; and

(B) in the case of any other kind of legal entity, holds interests representing at least 50 percent of the capital structure of the entity.

(2) UNITED STATES PERSON.—The term ''United States person'' includes any United States citizen, permanent resident alien, entity organized under the law of the United States (including foreign branches), wherever located, or any other person in the United States.

(c) APPLICABILITY.—

(1) IN GENERAL.—In any case in which the President has taken action under the International Emergency Economic Powers Act and such action is in effect on the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 90 days after the date of enactment of this Act.

(2) ACTIONS AFTER DATE OF ENACTMENT.—In any case in which the President takes action under the International Emergency Economic Powers Act on or after the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 90 days after the date of such action.

SEC. ___. NOTIFICATION OF CONGRESS OF TERMINATION OF INVESTIGATION BY OFFICE OF FOREIGN ASSETS CONTROL.

(a) NOTIFICATION REQUIREMENT.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

''Sec. 42. Notification of Congress of termination of investigation by Office of Foreign Assets Control.''.

''The Director of the Office of Foreign Assets Control shall notify Congress upon the termination of any investigation by the Office of Foreign Assets Control of the Department of the Treasury if any sanction is imposed by the Director of such office as a result of the investigation.''.

SA 3838. Mr. CORNYN 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:

At the end of the bill, add the following:

TITLE IV—HUMAN SMUGGLING PENALTY ENHANCEMENT

SEC. 401. SHORT TITLE.

This title may be cited as the ''Human Smuggling Penalty Enhancement Act of 2004''.

SEC. 402. ENHANCED PENALTIES FOR ALIEN SMUGGLING.

Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) by striking ''knowing that a person is an alien, brings'' and inserting ''knowing or in reckless disregard of the fact that a person is an alien, brings'';

(II) by striking ''Commissioner'' and inserting ''Under Secretary for Border and Transportation Security''; and

(III) by inserting ''and regardless of whether the person bringing or attempting to bring such alien to the United States intended to violate any criminal law'' before the semicolon;

(ii) in clause (iv), by striking ''or'' at the end;

(iii) in clause (v)—

(I) in subclause (I), by striking '', or'' and inserting a semicolon;

(II) in subclause (II), by striking the comma and inserting ''; or''; and

(III) by inserting after subclause (II) the following:

''(III) attempts to commit any of the preceding acts; or''; and

(iv) by inserting after clause (v) the following:

''(vi) knowing or in reckless disregard of the fact that a person is an alien, causes or attempts to cause such alien to be transported or moved across an international boundary, knowing that such transportation or moving is part of such alien's effort to enter or attempt to enter the United States without prior official authorization;''; and

(B) in subparagraph (B)—

(i) in clause (i)—

(I) by striking ''or (v)(I)'' and inserting '', (v)(I), or (vi)''; and

(II) by striking ''10 years'' and inserting ''20 years'';

(ii) in clause (ii), by striking ''5 years'' and inserting ''10 years''; and

(iii) in clause (iii), by striking ''20 years'' and inserting ''35 years'';

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A)—

(i) by inserting '', or facilitates or attempts to facilitate the bringing or transporting,'' after ''attempts to bring''; and

(ii) by inserting ''and regardless of whether the person bringing or attempting to bring such alien to the United States intended to violate any criminal law,'' after ''with respect to such alien''; and

(B) in subparagraph (B)—

(i) in clause (ii), by striking '', or'' and inserting a semicolon;

(ii) in clause (iii), by striking the comma at the end and inserting ''; or'';

(iii) by inserting after clause (iii), the following:

''(iv) an offense committed with knowledge or reason to believe that the alien unlawfully brought to or into the United States has engaged in or intends to engage in terrorist activity (as defined in section 212(a)(3)(B)(iv)),''; and

(iv) in the matter following clause (iv), as added by this subparagraph, by striking ''3 nor more than 10 years'' and inserting ''5 years nor more than 20 years''; and

(3) in paragraph (3)(A), by striking ''5 years'' and inserting ''10 years''.

SEC. 403. AMENDMENT TO SENTENCING GUIDELINES RELATING TO ALIEN SMUGGLING OFFENSES.

(a) DIRECTIVE TO UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and related policy statements to implement the provisions of this title.

(b) REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the Sentencing Guidelines and Policy Statements reflect—

(A) the serious nature of the offenses and penalties referred to in this title;

(B) the growing incidence of alien smuggling offenses; and

(C) the need to deter, prevent, and punish such offenses;

(2) consider the extent to which the Sentencing Guidelines and Policy Statements adequately address whether the guideline offense levels and enhancements for violations of the sections amended by this title—

(A) sufficiently deter and punish such offenses; and

(B) adequately reflect the enhanced penalties established under this title;

(3) maintain reasonable consistency with other relevant directives and sentencing guidelines;

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

(5) make any necessary conforming changes to the Sentencing Guidelines; and

(6) ensure that the Sentencing Guidelines adequately meet the purposes of sentencing

under section 3553(a)(2) of title 18, United States Code.

SA 3804. Mr. KYL 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 100, between lines 3 and 4, insert the following:

SEC. 145. OFFICE OF COMPETITIVE ANALYSIS.

(a) OFFICE OF COMPETITIVE ANALYSIS.—There is within the National Intelligence Authority an Office of Competitive Analysis.

(b) DIRECTOR OF OFFICE OF COMPETITIVE ANALYSIS.—(1) There is a Director of the Office of Competitive Analysis, who shall be the head of the Office of Competitive Analysis, and who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Any individual nominated for appointment as Director of the Office of Competitive Analysis shall have significant expertise in matters relating to United States foreign and defense policy and in matters relating to terrorism that threatens the national security of the United States.

(3) An individual serving as Director of the Office of Competitive Analysis may not, while so serving, serve in any capacity in any other element of the intelligence community.

(c) MISSION.—The primary mission of the Office of Competitive Analysis shall be as follows:

(1) To conduct detailed competitive evaluations of intelligence analysis (focusing on priorities identified by the National Intelligence Director, in consultation with the President) of—

(A) the National Intelligence Council;

(B) the elements of the intelligence community within the National Intelligence Program; and

(C) to the extent involving the analysis of national intelligence, other elements of the intelligence community.

(2) To conduct such additional competitive analysis as the Director of the Office of Competitive Analysis considers appropriate.

(d) STAFF.—(1) To assist the Director of the Office of Competitive Analysis in fulfilling the duties and responsibilities of the Director under this section, the National Intelligence Director shall employ in the Office of Competitive Analysis a professional staff having an expertise in matters relating to such duties and responsibilities.

(2) In providing for a professional staff for the Office under paragraph (1), the National Intelligence Director may establish as positions in the excepted service such positions in the Office as the National Intelligence Director considers appropriate.

(3) The National Intelligence Director shall ensure that the analytical staff of the Office is comprised primarily of experts from elements in the intelligence community and from the private sector as he deems appropriate.

(e) ACCESS TO INFORMATION.—In order to carry out the duties under this section, the Office of Competitive Analysis shall, unless otherwise directed by the President, have access to all analytic products, field reports, and raw intelligence of any element of the intelligence community.

(f) REPORTS.—Not later than January 31 each year, the Director of the Office of Competitive Analysis shall submit to the National Intelligence Director and the congressional intelligence committees on an annual basis a report that sets forth the results of its competitive evaluations of intelligence analysis under this section during the preceding year.

On page 172, line 2, insert ''**AND OFFICE OF COMPETITIVE ANALYSIS**'' before the period.

On page 172, line 5, insert ''or the Director of the Office of Competitive Analysis'' after ''National Counterterrorism Center''.

On page 172, beginning on line 23, strike ''and the Director of a national intelligence center'' and insert ''the Director of a national intelligence center, and the Director of the Office of Competitive Analysis''.

SA 3805. Mrs. CLINTON submitted an amendment intended to be proposed by her 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:

At the appropriate place, insert the following:

SEC. ____. TREATMENT OF ACCELERATOR-PRODUCED AND OTHER RADIOACTIVE MATERIAL AS BYPRODUCT MATERIAL.

(a) DEFINITION OF BYPRODUCT MATERIAL.—Section 11e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)) is amended—

(1) by striking ''means (1) any radioactive'' and inserting ''means—

''(1) any radioactive'';

(2) by striking ''material, and (2) the tailings'' and inserting ''material;

''(2) the tailings''; and

(3) by striking ''content.'' and inserting ''content;

''(3)(A) any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after the date of enactment of this paragraph, for use in a commercial, medical, or research activity; or

''(B) any material that—

''(i) has been made radioactive by use of a particle accelerator; and

''(ii) is produced, extracted, or converted after extraction, before, on, or after the date of enactment of this paragraph, for use in a commercial, medical, or research activity; and

''(4) any discrete source of naturally occurring radioactive material, other than source material that—

''(A) the Nuclear Regulatory Commission determines (after consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency), would pose a threat similar to that posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

''(B) before, on, or after the date of enactment of this paragraph, is extracted or converted after extraction, for use in a commercial, medical, or research activity.''.

(b) AGREEMENTS.—Section 274b. of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (2) the following:

''(3) byproduct materials (as defined in section 11e.(3));

''(4) byproduct materials (as defined in section 11e.(4));''.

(c) REGULATIONS.—

(1) IN GENERAL.—Not later than the effective date of this section, the Nuclear Regulatory Commission shall promulgate final regulations establishing such requirements and standards as the Commission considers necessary for the acquisition, possession, transfer, use, or disposal of byproduct material (as defined in paragraphs (3) and (4) of section 11e. of the Atomic Energy Act of 1954 (as added by subsection (a))).

(2) COOPERATION.—The Commission shall cooperate with the States in formulating the regulations under paragraph (1).

(3) TRANSITION.—To ensure an orderly transition of regulatory authority with respect to byproduct material as defined in paragraphs (3) and (4) of section 11e. of the Atomic Energy Act of 1954 (as added by subsection (a)), not later than 180 days before the effective date of this section, the Nuclear Regulatory Commission shall prepare and provide public notice of a transition plan developed in coordination with States that—

(A) have not, before the effective date of this section, entered into an agreement with the Commission under section 274b. of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)); or

(B) in the case of a State that has entered into such an agreement, has not, before the effective date of this section, applied for an amendment to the agreement that would permit assumption by the State of regulatory responsibility for such byproduct material.

(d) WASTE DISPOSAL.—

(1) DEFINITION OF BYPRODUCT MATERIAL.—In this subsection, the term ''byproduct material'' has the meaning given the term in paragraphs (3) and (4) of section 11e. of the Atomic Energy Act of 1954 (as added by subsection (a)).

(2) IN GENERAL.—Beginning on the date of enactment of this Act, except as provided in paragraph (3), byproduct material may be transferred to and disposed of—

(A) in a disposal facility licensed by the Commission, if the disposal facility meets the requirements of the Commission; or

(B) in a disposal facility licensed by a State that has entered into an agreement with the Commission under section 274b. of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)), if the disposal facility meets requirements of the State that are equivalent to the requirements of the Commission.

(3) RCRA.—Byproduct material may be disposed of in accordance with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) to the same extent as the byproduct material was subject to that Act before the date of enactment of this section.

(4) NOT CONSIDERED LOW-LEVEL RADIOACTIVE WASTE.—Byproduct material shall not be considered low-level radioactive waste—

(A) as defined in section 2 of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b); or

(B) in implementing any Compact—

(1) entered into in accordance with the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.); and

(ii) approved by Congress.

(e) EFFECTIVE DATE.—Except with respect to matters that the Nuclear Regulatory Commission determines are required to be addressed earlier to protect the public health and safety or to promote the common defense and security, the amendments made by this section take effect on the date that is—

(1) with respect to imports and exports, 1 year after the date of enactment of this Act; and

(2) with respect to domestic matters, 4 years after the date of enactment of this Act.

SA 3806. 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 end of the bill, add the following:

TITLE ____—PRESIDENTIAL TRANSITION

SEC. ___01. PRESIDENTIAL TRANSITION.

(a) SERVICES PROVIDED PRESIDENT-ELECT.—Section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended—

(1) by adding after subsection (a)(8)(A)(iv) the following:

''(v) Activities under this paragraph shall include the preparation of a detailed classified, compartmented summary by the relevant outgoing executive branch officials of specific operational threats to national security; major military or covert operations; and pending decisions on possible uses of military force. This summary shall be provided to the President-elect as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.'';

(2) by redesignating subsection (f) as subsection (g); and

(3) by adding after subsection (e) the following:

''(f)(1) The President-elect should submit to the Federal Bureau of Investigation or other appropriate agency and then, upon taking effect and designation, to the agency designated by the President under section 115(b) of the National Intelligence Reform Act of 2004, the names of candidates for high level national security positions through the level of undersecretary of cabinet departments as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.

''(2) The responsible agency or agencies shall undertake and complete as expeditiously as possible the background investigations necessary to provide appropriate security clearances to the individuals who are candidates described under paragraph (1) before the date of the inauguration of the President-elect as President and the inauguration of the Vice-President-elect as Vice President.''.

(b) SENSE OF THE SENATE REGARDING EXPEDITED CONSIDERATION OF NATIONAL SECURITY NOMINEES.—It is the sense of the Senate that—

(1) the President-elect should submit the nominations of candidates for high-level national security positions, through the level of undersecretary of cabinet departments, to the Senate by the date of the inauguration of the President-elect as President; and

(2) for all such national security nominees received by the date of inauguration, the Senate committees to which these nominations are referred should, to the fullest extent possible, complete their consideration of these nominations, and, if such nominations are reported by the committees, the full Senate should vote to confirm or reject these nominations, within 30 days of their submission.

(c) SECURITY CLEARANCES FOR TRANSITION TEAM MEMBERS.—

(1) DEFINITION.—In this section, the term ''major party'' shall have the meaning given under section 9002(6) of the Internal Revenue Code of 1986.

(2) IN GENERAL.—Each major party candidate for President may submit, before the date of the general election, requests for security clearances for prospective transition team members who will have a need for access to classified information to carry out their responsibilities as members of the President-elect's transition team.

(3) COMPLETION DATE.—Necessary background investigations and eligibility determinations to permit appropriate prospective transition team members to have access to classified information shall be completed, to the fullest extent practicable, by the day after the date of the general election.

(d) EFFECTIVE DATE.—Notwithstanding section 341, this section and the amendments made by this section shall take effect on the date of enactment of this Act.

SA 3807. Mr. MCCAIN (for himself and Mr. LEIBERMAN) 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 ____—TERRORIST TRAVEL AND EFFECTIVE SCREENING

SEC. ___01. COUNTERTERRORIST TRAVEL INTELLIGENCE.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Travel documents are as important to terrorists as weapons since terrorists must travel clandestinely to meet, train, plan, case targets, and gain access to attack sites.

(2) International travel is dangerous for terrorists because they must surface to pass through regulated channels, present themselves to border security officials, or attempt to circumvent inspection points.

(3) Terrorists use evasive, but detectable, methods to travel, such as altered and counterfeit passports and visas, specific travel methods and routes, liaisons with corrupt government officials, human smuggling networks, supportive travel agencies, and immigration and identity fraud.

(4) Before September 11, 2001, no Federal agency systematically analyzed terrorist travel strategies. If an agency had done so, the agency could have discovered the ways in which the terrorist predecessors to al Qaeda had been systematically, but detectably, exploiting weaknesses in our border security since the early 1990s.

(5) Many of the hijackers were potentially vulnerable to interception by border authorities. Analyzing their characteristic travel documents and travel patterns could have allowed authorities to intercept some of the hijackers and a more effective use of information available in Government databases could have identified some of the hijackers.

(6) The routine operations of our immigration laws and the aspects of those laws not specifically aimed at protecting against terrorism inevitably shaped al Qaeda's planning and opportunities.

(7) New insights into terrorist travel gained since September 11, 2001, have not been adequately integrated into the front lines of border security.

(8) The small classified terrorist travel intelligence collection and analysis program currently in place has produced useful results and should be expanded.

(b) STRATEGY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress unclassified and classified versions of a strategy for combining terrorist travel intelligence, operations, and law enforcement into a cohesive effort to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility domestically and internationally. The report to Congress should include a description of the actions taken to implement the strategy.

(2) ACCOUNTABILITY.—The strategy submitted under paragraph (1) shall—

(A) describe a program for collecting, analyzing, disseminating, and utilizing information and intelligence regarding terrorist travel tactics and methods; and

(B) outline which Federal intelligence, diplomatic, and law enforcement agencies will be held accountable for implementing each element of the strategy.

(3) COORDINATION.—The strategy shall be developed in coordination with all relevant Federal agencies, including—

(A) the National Counterterrorism Center;

(B) the Department of Transportation;

(C) the Department of State;

(D) the Department of the Treasury;

(E) the Department of Justice;

(F) the Department of Defense;

(G) the Federal Bureau of Investigation;

(H) the Drug Enforcement Agency; and

(I) the agencies that comprise the intelligence community.

(4) CONTENTS.—The strategy shall address—

(A) the intelligence and law enforcement collection, analysis, operations, and reporting required to identify and disrupt terrorist travel practices and trends, and the terrorist travel facilitators, document forgers, human smugglers, travel agencies, and corrupt border and transportation officials who assist terrorists;

(B) the initial and ongoing training and training materials required by consular, border, and immigration officials to effectively detect and disrupt terrorist travel described under subsection (c)(3);

(C) the new procedures required and actions to be taken to integrate existing counterterrorist travel and mobility intelligence into border security processes, including consular, port of entry, border patrol, maritime, immigration benefits, and related law enforcement activities;

(D) the actions required to integrate current terrorist mobility intelligence into military force protection measures;

(E) the additional assistance to be given to the interagency Human Smuggling and Trafficking Center for purposes of combatting terrorist travel, including further developing and expanding enforcement and operational capabilities that address terrorist travel;

(F) the additional resources to be given to the Department of Homeland Security to aid in the sharing of information between the frontline border agencies of the Department of Homeland Security, the Department of State, and classified and unclassified sources of counterterrorist travel intelligence and information elsewhere in the Federal Government, including the Human Smuggling and Trafficking Center;

(G) the development and implementation of procedures to enable the Human Smuggling and Trafficking Center to timely receive terrorist travel intelligence and documentation obtained at consulates and ports of entry, and by law enforcement officers and military personnel;

(H) the use of foreign and technical assistance to advance border security measures and law enforcement operations against terrorist travel facilitators;

(I) the development of a program to provide each consular, port of entry, and immigration benefits office with a counterterrorist travel expert trained and authorized to use the relevant authentication technologies and cleared to access all appropriate immigration, law enforcement, and intelligence databases;

(J) the feasibility of digitally transmitting passport information to a central cadre of specialists until such time as experts described under subparagraph (I) are available

at consular, port of entry, and immigration benefits offices; and

(K) granting consular officers and immigration adjudicators, as appropriate, the security clearances necessary to access law enforcement sensitive and intelligence databases.

(c) FRONTLINE COUNTERTERRORIST TRAVEL TECHNOLOGY AND TRAINING.—

(1) TECHNOLOGY ACQUISITION AND DISSEMINATION PLAN.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in conjunction with the Secretary of State, shall submit to Congress a plan describing how the Department of Homeland Security and the Department of State can acquire and deploy, to all consulates, ports of entry, and immigration benefits offices, technologies that facilitate document authentication and the detection of potential terrorist indicators on travel documents.

(2) CONTENTS OF PLAN.—The plan submitted under paragraph (1) shall—

(A) outline the timetable needed to acquire and deploy the authentication technologies;

(B) identify the resources required to—

(i) fully disseminate these technologies; and

(ii) train personnel on use of these technologies; and

(C) address the feasibility of using these technologies to screen every passport or other documentation described in section ___04(b) submitted for identification purposes to a United States consular, border, or immigration official.

(3) TRAINING PROGRAM.—

(A) IN GENERAL.—The Secretary of Homeland Security and the Secretary of State shall develop and implement initial and ongoing annual training programs for consular, border, and immigration officials who encounter or work with travel or immigration documents as part of their duties to teach such officials how to effectively detect and disrupt terrorist travel.

(B) TERRORIST TRAVEL INTELLIGENCE.—The Secretary may assist State, local, and tribal governments, and private industry, in establishing training programs related to terrorist travel intelligence.

(C) TRAINING TOPICS.—The training developed under this paragraph shall include training in—

(i) methods for identifying fraudulent documents;

(ii) detecting terrorist indicators on travel documents;

(iii) recognizing travel patterns, tactics, and behaviors exhibited by terrorists;

(iv) the use of information contained in available databases and data systems and procedures to maintain the accuracy and integrity of such systems; and

(v) other topics determined necessary by the Secretary of Homeland Security and the Secretary of State.

(D) CERTIFICATION.—Not later than 1 year after the date of enactment of this Act—

(i) the Secretary of Homeland Security shall certify to Congress that all border and immigration officials who encounter or work with travel or immigration documents as part of their duties have received training under this paragraph; and

(ii) the Secretary of State shall certify to Congress that all consular officers who encounter or work with travel or immigration documents as part of their duties have received training under this paragraph.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out the provisions of this subsection.

(d) ENHANCING CLASSIFIED COUNTERTERRORIST TRAVEL EFFORTS.—

(1) IN GENERAL.—The National Intelligence Director shall significantly increase resources and personnel to the small classified program that collects and analyzes intelligence on terrorist travel.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this subsection.

SEC. ___02. INTEGRATED SCREENING SYSTEM.

(a) IN GENERAL.—The Secretary of Homeland Security shall develop a plan for a comprehensive integrated screening system.

(b) DESIGN.—The system planned under subsection (a) shall be designed to—

(1) encompass an integrated network of screening points that includes the Nation's border security system, transportation system, and critical infrastructure or facilities that the Secretary determines need to be protected against terrorist attack;

(2) build upon existing border enforcement and security activities, and to the extent practicable, private sector security initiatives, in a manner that will enable the utilization of a range of security check points in a continuous and consistent manner throughout the Nation's screening system;

(3) allow access to government databases to detect terrorists; and

(4) utilize biometric identifiers that the Secretary determines to be appropriate, feasible, and if practicable, compatible with the biometric entry and exit data system described in section ___03.

(c) STANDARDS FOR SCREENING PROCEDURES.—

(1) AUTHORIZATION.—The Secretary may promulgate standards for screening procedures for—

(A) entering and leaving the United States;

(B) accessing Federal facilities that the Secretary determines need to be protected against terrorist attack;

(C) accessing critical infrastructure that the Secretary determines need to be protected against terrorist attack; and

(D) accessing modes of transportation that the Secretary determines need to be protected against terrorist attack.

(2) SCOPE.—Standards prescribed under this subsection may address a range of factors, including technologies required to be used in screening and requirements for secure identification.

(3) REQUIREMENTS.—In promulgating standards for screening procedures, the Secretary shall—

(A) consider and incorporate appropriate civil liberties and privacy protections;

(B) comply with the Administrative Procedure Act; and

(C) consult with other Federal, State, local, and tribal governments, private parties, and other interested parties, as appropriate.

(4) LIMITATION.—This section does not confer to the Secretary new statutory authority, or alter existing authorities, over systems, critical infrastructure, and facilities.

(5) NOTIFICATION.—If the Secretary determines that additional regulatory authority is needed to fully implement the plan for an integrated screening system, the Secretary shall immediately notify Congress.

(d) COMPLIANCE.—The Secretary may issue regulations to ensure compliance with the standards promulgated under this section.

(e) CONSULTATION.—For those systems, critical infrastructure, and facilities that the Secretary determines need to be protected against terrorist attack, the Secretary shall consult with other Federal agencies, State, local, and tribal governments, and the private sector to ensure the development of consistent standards and consistent implementation of the integrated screening system.

(f) BIOMETRIC IDENTIFIERS.—In carrying out this section, the Secretary shall continue to review biometric technologies and existing Federal and State programs using biometric identifiers. Such review shall consider the accuracy rate of available technologies.

(g) MAINTAINING ACCURACY AND INTEGRITY OF THE INTEGRATED SCREENING SYSTEM.—

(1) IN GENERAL.—The Secretary shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, the integrated screening system that ensure the accuracy and integrity of the data.

(2) DATA MAINTENANCE PROCEDURES.—Each head of a Federal agency that has databases and data systems linked to the integrated screening system shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, such databases or data systems that ensure the accuracy and integrity of the data.

(3) REQUIREMENTS.—The rules, guidelines, policies, and procedures established under this subsection shall—

(A) incorporate a simple and timely method for—

(i) correcting errors;

(ii) determining which government agency or entity provided data so that the accuracy of the data can be ascertained; and

(iii) clarifying information known to cause false hits or misidentification errors; and

(B) include procedures for individuals to—

(i) seek corrections of data contained in the databases or data systems; and

(ii) appeal decisions concerning data contained in the databases or data systems.

(h) IMPLEMENTATION.—

(1) PHASE I.—The Secretary shall—

(A) develop plans for, and begin implementation of, a single program for registered travelers to expedite travel across the border, as required under section ___03(g);

(B) continue the implementation of a biometric exit and entry data system that links to relevant databases and data systems, as required by subsections (c) through (f) of section ___03 and other existing authorities;

(C) centralize the ''no-fly'' and ''automatic-selectee'' lists, making use of improved terrorists watch lists, as required by section ___03;

(D) develop plans, in consultation with other relevant agencies, for the sharing of terrorist information with trusted governments, as required by section ___05;

(E) initiate any other action determined appropriate by the Secretary to facilitate the implementation of this paragraph; and

(F) report to Congress on the implementation of phase I, including—

(i) the effectiveness of actions taken, the efficacy of resources expended, compliance with statutory provisions, and safeguards for privacy and civil liberties; and

(ii) plans for the development and implementation of phases II and III.

(2) PHASE II.—The Secretary shall—

(A) complete the implementation of a single program for registered travelers to expedite travel across the border, as required by section ___03(g);

(B) complete the implementation of a biometric entry and exit data system that links to relevant databases and data systems, as required by subsections (c) through (f) of section ___03, and other existing authorities;

(C) in cooperation with other relevant agencies, engage in dialogue with foreign

governments to develop plans for the use of common screening standards;

(D) initiate any other action determined appropriate by the Secretary to facilitate the implementation of this paragraph; and

(E) report to Congress on the implementation of phase II, including—

(i) the effectiveness of actions taken, the efficacy of resources expended, compliance with statutory provisions, and safeguards for privacy and civil liberties; and

(ii) the plans for the development and implementation of phase III.

(3) PHASE III.—The Secretary shall—

(A) finalize and deploy the integrated screening system required by subsection (a);

(B) in cooperation with other relevant agencies, promote the implementation of common screening standards by foreign governments; and

(C) report to Congress on the implementation of Phase III, including—

(i) the effectiveness of actions taken, the efficacy of resources expended, compliance with statutory provisions, and safeguards for privacy and civil liberties; and

(ii) the plans for the ongoing operation of the integrated screening system.

(i) REPORT.—After phase III has been implemented, the Secretary shall submit a report to Congress every 3 years that describes the ongoing operation of the integrated screening system, including its effectiveness, efficient use of resources, compliance with statutory provisions, and safeguards for privacy and civil liberties.

(j) AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out the provisions of this section.

SEC. ____03. BIOMETRIC ENTRY AND EXIT DATA SYSTEM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that completing a biometric entry and exit data system as expeditiously as possible is an essential investment in efforts to protect the United States by preventing the entry of terrorists.

(b) DEFINITION.—In this section, the term ''entry and exit data system'' means the entry and exit system required by applicable sections of—

(1) the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208);

(2) the Immigration and Naturalization Service Data Management Improvement Act of 2000 (Public Law 106–205);

(3) the Visa Waiver Permanent Program Act (Public Law 106–396);

(4) the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173); and

(5) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107–56).

(c) PLAN AND REPORT.—

(1) DEVELOPMENT OF PLAN.—The Secretary of Homeland Security shall develop a plan to accelerate the full implementation of an automated biometric entry and exit data system.

(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress on the plan developed under paragraph (1), which shall contain—

(A) a description of the current functionality of the entry and exit data system, including—

(i) a listing of ports of entry and other Department of Homeland Security and Department of State locations with biometric entry data systems in use and whether such screening systems are located at primary or secondary inspection areas;

(ii) a listing of ports of entry and other Department of Homeland Security and Department of State locations with biometric exit data systems in use;

(iii) a listing of databases and data systems with which the entry and exit data system are interoperable;

(iv) a description of—

(I) identified deficiencies concerning the accuracy or integrity of the information contained in the entry and exit data system;

(II) identified deficiencies concerning technology associated with processing individuals through the system; and

(III) programs or policies planned or implemented to correct problems identified in subclause (I) or (II); and

(v) an assessment of the effectiveness of the entry and exit data system in fulfilling its intended purposes, including preventing terrorists from entering the United States;

(B) a description of factors relevant to the accelerated implementation of the biometric entry and exit data system, including—

(i) the earliest date on which the Secretary estimates that full implementation of the biometric entry and exit data system can be completed;

(ii) the actions the Secretary will take to accelerate the full implementation of the biometric entry and exit data system at all ports of entry through which all aliens must pass that are legally required to do so; and

(iii) the resources and authorities required to enable the Secretary to meet the implementation date described in clause (i);

(C) a description of any improvements needed in the information technology employed for the biometric entry and exit data system;

(D) a description of plans for improved or added interoperability with any other databases or data systems; and

(E) a description of the manner in which the Department of Homeland Security's US-VISIT program—

(i) meets the goals of a comprehensive entry and exit screening system, including both entry and exit biometric; and

(ii) fulfills the statutory obligations under subsection (b).

(d) COLLECTION OF BIOMETRIC EXIT DATA.—The entry and exit data system shall include a requirement for the collection of biometric exit data for all categories of individuals who are required to provide biometric entry data, regardless of the port of entry where such categories of individuals entered the United States.

(e) INTEGRATION AND INTEROPERABILITY.—

(1) INTEGRATION OF DATA SYSTEM.—Not later than 2 years after the date of enactment of this Act, the Secretary shall fully integrate all databases and data systems that process or contain information on aliens, which are maintained by—

(A) the Department of Homeland Security, at—

(i) the United States Immigration and Customs Enforcement;

(ii) the United States Customs and Border Protection; and

(iii) the United States Citizenship and Immigration Services;

(B) the Department of Justice, at the Executive Office for Immigration Review; and

(C) the Department of State, at the Bureau of Consular Affairs.

(2) INTEROPERABLE COMPONENT.—The fully integrated data system under paragraph (1) shall be an interoperable component of the entry and exit data system.

(3) INTEROPERABLE DATA SYSTEM.—Not later than 2 years after the date of enactment of this Act, the Secretary shall fully implement an interoperable electronic data system, as required by section 202 of the Enhanced Border Security and Visa Entry Reform Act (8 U.S.C. 1722) to provide current and immediate access to information in the databases of Federal law enforcement agencies and the intelligence community that is relevant to determine—

(A) whether to issue a visa; or

(B) the admissibility or deportability of an alien.

(f) MAINTAINING ACCURACY AND INTEGRITY OF ENTRY AND EXIT DATA SYSTEM.—

(1) IN GENERAL.—The Secretary shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, the entry and exit data system that ensure the accuracy and integrity of the data.

(2) DATA MAINTENANCE PROCEDURES.—Heads of agencies that have databases or data systems linked to the entry and exit data system shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, such databases or data systems that ensure the accuracy and integrity of the data.

(3) REQUIREMENTS.—The rules, guidelines, policies, and procedures established under this subsection shall—

(A) incorporate a simple and timely method for—

(i) correcting errors;

(ii) determining which government agency or entity provided data so that the accuracy of the data can be ascertained; and

(iii) clarifying information known to cause false hits or misidentification errors; and

(B) include procedures for individuals to—

(i) seek corrections of data contained in the databases or data systems; and

(ii) appeal decisions concerning data contained in the databases or data systems.

(g) EXPEDITING REGISTERED TRAVELERS ACROSS INTERNATIONAL BORDERS.—

(1) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that—

(A) expediting the travel of previously screened and known travelers across the borders of the United States should be a high priority; and

(B) the process of expediting known travelers across the borders of the United States can permit inspectors to better focus on identifying terrorists attempting to enter the United States.

(2) DEFINITION.—In this subsection, the term ''registered traveler program'' means any program designed to expedite the travel of previously screened and known travelers across the borders of the United States.

(3) REGISTERED TRAVEL PROGRAM.—

(A) IN GENERAL.—As soon as is practicable, the Secretary shall develop and implement a registered traveler program to expedite the processing of registered travelers who enter and exit the United States.

(B) PARTICIPATION.—The registered traveler program shall include as many participants as practicable by—

(i) minimizing the cost of enrollment;

(ii) making program enrollment convenient and easily accessible; and

(iii) providing applicants with clear and consistent eligibility guidelines.

(C) INTEGRATION.—The registered traveler program shall be integrated into the automated biometric entry and exit data system described in this section.

(D) REVIEW AND EVALUATION.—In developing the registered traveler program, the Secretary shall—

(i) review existing programs or pilot projects designed to expedite the travel of

registered travelers across the borders of the United States;

(ii) evaluate the effectiveness of the programs described in clause (i), the costs associated with such programs, and the costs to travelers to join such programs;

(iii) increase research and development efforts to accelerate the development and implementation of a single registered traveler program; and

(iv) review the feasibility of allowing participants to enroll in the registered traveler program at consular offices.

(4) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the Department's progress on the development and implementation of the registered traveler program.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary, for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out the provisions of this section.

SEC. ___04. TRAVEL DOCUMENTS.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that—

(1) existing procedures allow many individuals to enter the United States by showing minimal identification or without showing any identification;

(2) the planning for the terrorist attacks of September 11, 2001, demonstrates that terrorists study and exploit United States vulnerabilities; and

(3) additional safeguards are needed to ensure that terrorists cannot enter the United States.

(b) BIOMETRIC PASSPORTS.—

(1) DEVELOPMENT OF PLAN.—The Secretary of State, in consultation with the Secretary of Homeland Security, shall develop and implement a plan as expeditiously as possible to require biometric passports or other identification deemed by the Secretary of State to be at least as secure as a biometric passport, for all travel into the United States by United States citizens and by categories of individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(4)(B)).

(2) REQUIREMENT TO PRODUCE DOCUMENTATION.—The plan developed under paragraph (1) shall require all United States citizens, and categories of individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of such Act, to carry and produce the documentation described in paragraph (1) when traveling from foreign countries into the United States.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—After the complete implementation of the plan described in subsection (b)—

(1) neither the Secretary of State nor the Secretary of Homeland Security may exercise discretion under section 212(d)(4)(B) of such Act to waive documentary requirements for travel into the United States; and

(2) the President may not exercise discretion under section 215(b) of such Act (8 U.S.C. 1185(b)) to waive documentary requirements for United States citizens departing from or entering, or attempting to depart from or enter, the United States except—

(A) where the Secretary of State, in consultation with the Secretary of Homeland Security, determines that the alternative documentation that is the basis for the waiver of the documentary requirement is at least as secure as a biometric passport;

(B) in the case of an unforeseen emergency in individual cases; or

(C) in the case of humanitarian or national interest reasons in individual cases.

(d) TRANSIT WITHOUT VISA PROGRAM.—The Secretary of State shall not use any authorities granted under section 212(d)(4)(C) of such Act until the Secretary, in conjunction with the Secretary of Homeland Security, completely implements a security plan to fully ensure secure transit passage areas to prevent aliens proceeding in immediate and continuous transit through the United States from illegally entering the United States.

SEC. ___05. EXCHANGE OF TERRORIST INFORMATION AND INCREASED PREINSPECTION AT FOREIGN AIRPORTS.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that—

(1) the exchange of terrorist information with other countries, consistent with privacy requirements, along with listings of lost and stolen passports, will have immediate security benefits; and

(2) the further away from the borders of the United States that screening occurs, the more security benefits the United States will gain.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States Government should exchange terrorist information with trusted allies;

(2) the United States Government should move toward real-time verification of passports with issuing authorities;

(3) where practicable the United States Government should conduct screening before a passenger departs on a flight destined for the United States;

(4) the United States Government should work with other countries to ensure effective inspection regimes at all airports;

(5) the United States Government should work with other countries to improve passport standards and provide foreign assistance to countries that need help making the transition to the global standard for identification; and

(6) the Department of Homeland Security, in coordination with the Department of State and other agencies, should implement the initiatives called for in this subsection.

(c) REPORT REGARDING THE EXCHANGE OF TERRORIST INFORMATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of State and the Secretary of Homeland Security, working with other agencies, shall submit to the appropriate committees of Congress a report on Federal efforts to collaborate with allies of the United States in the exchange of terrorist information.

(2) CONTENTS.—The report shall outline—

(A) strategies for increasing such collaboration and cooperation;

(B) progress made in screening passengers before their departure to the United States; and

(C) efforts to work with other countries to accomplish the goals described under this section.

(d) PREINSPECTION AT FOREIGN AIRPORTS.—

(1) IN GENERAL.—Section 235A(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225a(a)(4)) is amended to read as follows:

''(4) Subject to paragraph (5), not later than January 1, 2008, the Secretary of Homeland Security, in consultation with the Secretary of State, shall establish preinspection stations in at least 25 additional foreign airports, which the Secretary of Homeland Security, in consultation with the Secretary of State, determines, based on the data compiled under paragraph (3) and such other information as may be available, would most effectively facilitate the travel of admissible aliens and reduce the number of inadmissible aliens, especially aliens who are potential terrorists, who arrive from abroad by air at points of entry within the United States. Such preinspection stations shall be in addition to those established prior to September 30, 1996, or pursuant to paragraph (1).''.

(2) REPORT.—Not later than June 30, 2006, the Secretary of Homeland Security and the Secretary of State shall submit a report on the progress being made in implementing the amendment made by paragraph (1) to—

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

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

(C) the Committee on Foreign Relations of the Senate; and

(D) the Committee on International Relations of the House of Representatives.

SEC. ___06. MINIMUM STANDARDS FOR BIRTH CERTIFICATES.

(a) DEFINITION.—In this section, the term 'birth certificate' means a certificate of birth—

(1) for an individual (regardless of where born)—

(A) who is a citizen or national of the United States at birth; and

(B) whose birth is registered in the United States; and

(2) that—

(A) is issued by a Federal, State, or local government agency or authorized custodian of record and produced from birth records maintained by such agency or custodian of record; or

(B) is an authenticated copy, issued by a Federal, State, or local government agency or authorized custodian of record, of an original certificate of birth issued by such agency or custodian of record.

(b) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

(1) IN GENERAL.—Beginning 2 years after the promulgation of minimum standards under paragraph (3), no Federal agency may accept a birth certificate for any official purpose unless the certificate conforms to such standards.

(2) STATE CERTIFICATION.—

(A) IN GENERAL.—Each State shall certify to the Secretary of Health and Human Services that the State is in compliance with the requirements of this section.

(B) FREQUENCY.—Certifications under subparagraph (A) shall be made at such intervals and in such a manner as the Secretary of Health and Human Services, with the concurrence of the Secretary of Homeland Security and the Commissioner of Social Security, may prescribe by regulation.

(C) COMPLIANCE.—Each State shall ensure that units of local government and other authorized custodians of records in the State comply with this section.

(D) AUDITS.—The Secretary of Health and Human Services may conduct periodic audits of each State's compliance with the requirements of this section.

(3) MINIMUM STANDARDS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall by regulation establish minimum standards for birth certificates for use by Federal agencies for official purposes that—

(A) at a minimum, shall require certification of the birth certificate by the State or local government custodian of record that issued the certificate, and shall require the use of safety paper or an alternative, equally secure medium, the seal of the issuing custodian of record, and other features designed to prevent tampering, counterfeiting, or otherwise duplicating the birth certificate for fraudulent purposes;

(B) shall establish requirements for proof and verification of identity as a condition of issuance of a birth certificate, with additional security measures for the issuance of a birth certificate for a person who is not the applicant;

(C) shall establish standards for the processing of birth certificate applications to prevent fraud;

(D) may not require a single design to which birth certificates issued by all States must conform; and

(E) shall accommodate the differences between the States in the manner and form in which birth records are stored and birth certificates are produced from such records.

(4) CONSULTATION WITH GOVERNMENT AGENCIES.—In promulgating the standards required under paragraph (3), the Secretary of Health and Human Services shall consult with—

(A) the Secretary of Homeland Security;

(B) the Commissioner of Social Security;

(C) State vital statistics offices; and

(D) other appropriate Federal agencies.

(5) EXTENSION OF EFFECTIVE DATE.—The Secretary of Health and Human Services may extend the date specified under paragraph (1) for up to 2 years for birth certificates issued by a State if the Secretary determines that the State made reasonable efforts to comply with the date under paragraph (1) but was unable to do so.

(c) GRANTS TO STATES.—

(1) ASSISTANCE IN MEETING FEDERAL STANDARDS.—

(A) IN GENERAL.—Beginning on the date a final regulation is promulgated under subsection (b)(3), the Secretary of Health and Human Services shall award grants to States to assist them in conforming to the minimum standards for birth certificates set forth in the regulation.

(B) ALLOCATION OF GRANTS.—The Secretary shall award grants to States under this paragraph based on the proportion that the estimated average annual number of birth certificates issued by a State applying for a grant bears to the estimated average annual number of birth certificates issued by all States.

(C) MINIMUM ALLOCATION.—Notwithstanding subparagraph (B), each State shall receive not less than 0.5 percent of the grant funds made available under this paragraph.

(2) ASSISTANCE IN MATCHING BIRTH AND DEATH RECORDS.—

(A) IN GENERAL.—The Secretary of Health and Human Services, in coordination with the Commissioner of Social Security and other appropriate Federal agencies, shall award grants to States, under criteria established by the Secretary, to assist States in—

(i) computerizing their birth and death records;

(ii) developing the capability to match birth and death records within each State and among the States; and

(iii) noting the fact of death on the birth certificates of deceased persons.

(B) ALLOCATION OF GRANTS.—The Secretary shall award grants to qualifying States under this paragraph based on the proportion that the estimated annual average number of birth and death records created by a State applying for a grant bears to the estimated annual average number of birth and death records originated by all States.

(C) MINIMUM ALLOCATION.—Notwithstanding subparagraph (B), each State shall receive not less than 0.5 percent of the grant funds made available under this paragraph.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this section.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—Section 656 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (5 U.S.C. 301 note) is repealed.

SEC. ___07. DRIVER'S LICENSES AND PERSONAL IDENTIFICATION CARDS.

(a) DEFINITIONS.—In this section:

(1) DRIVER'S LICENSE.—The term 'driver's license' means a motor vehicle operator's license as defined in section 30301(5) of title 49, United States Code.

(2) PERSONAL IDENTIFICATION CARD.—The term 'personal identification card' means an identification document (as defined in section 1028(d)(3) of title 18, United States Code) issued by a State.

(b) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

(1) IN GENERAL.—

(A) LIMITATION ON ACCEPTANCE.—No Federal agency may accept, for any official purpose, a driver's license or personal identification card newly issued by a State more than 2 years after the promulgation of the minimum standards under paragraph (2) unless the driver's license or personal identification card conforms to such minimum standards.

(B) DATE FOR CONFORMANCE.—The Secretary of Transportation, in consultation with the Secretary of Homeland Security, shall establish a date after which no driver's license or personal identification card shall be accepted by a Federal agency for any official purpose unless such driver's license or personal identification card conforms to the minimum standards established under paragraph (2). The date shall be as early as the Secretary determines it is practicable for the States to comply with such date with reasonable efforts.

(C) STATE CERTIFICATION.—

(i) IN GENERAL.—Each State shall certify to the Secretary of Transportation that the State is in compliance with the requirements of this section.

(ii) FREQUENCY.—Certifications under clause (i) shall be made at such intervals and in such a manner as the Secretary of Transportation, with the concurrence of the Secretary of Homeland Security, may prescribe by regulation.

(iii) AUDITS.—The Secretary of Transportation may conduct periodic audits of each State's compliance with the requirements of this section.

(2) MINIMUM STANDARDS.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Homeland Security, shall by regulation, establish minimum standards for driver's licenses or personal identification cards issued by a State for use by Federal agencies for identification purposes that shall include—

(A) standards for documentation required as proof of identity of an applicant for a driver's license or personal identification card;

(B) standards for the verifiability of documents used to obtain a driver's license or personal identification card;

(C) standards for the processing of applications for driver's licenses and personal identification cards to prevent fraud;

(D) security standards to ensure that driver's licenses and personal identification cards are—

(i) resistant to tampering, alteration, or counterfeiting; and

(ii) capable of accommodating and ensuring the security of a digital photograph or other unique identifier; and

(E) a requirement that a State confiscate a driver's license or personal identification card if any component or security feature of the license or identification card is compromised.

(3) CONTENT OF REGULATIONS.—The regulations required by paragraph (2)—

(A) shall facilitate communication between the chief driver licensing official of a State, an appropriate official of a Federal agency and other relevant officials, to verify the authenticity of documents, as appropriate, issued by such Federal agency or entity and presented to prove the identity of an individual;

(B) may not infringe on a State's power to set criteria concerning what categories of individuals are eligible to obtain a driver's license or personal identification card from that State;

(C) may not require a State to comply with any such regulation that conflicts with or otherwise interferes with the full enforcement of State criteria concerning the categories of individuals that are eligible to obtain a driver's license or personal identification card from that State;

(D) may not require a single design to which driver's licenses or personal identification cards issued by all States must conform; and

(E) shall include procedures and requirements to protect the privacy and civil and due process rights of individuals who apply for and hold driver's licenses and personal identification cards.

(4) NEGOTIATED RULEMAKING.—

(A) IN GENERAL.—Before publishing the proposed regulations required by paragraph (2) to carry out this title, the Secretary of Transportation shall establish a negotiated rulemaking process pursuant to subchapter IV of chapter 5 of title 5, United States Code (5 U.S.C. 581 et seq.).

(B) REPRESENTATION ON NEGOTIATED RULEMAKING COMMITTEE.—Any negotiated rulemaking committee established by the Secretary of Transportation pursuant to subparagraph (A) shall include representatives from—

(i) among State offices that issue driver's licenses or personal identification cards;

(ii) among State elected officials;

(iii) the Department of Homeland Security; and

(iv) among interested parties, including organizations with technological and operational expertise in document security and organizations that represent the interests of applicants for such licenses or identification cards.

(C) TIME REQUIREMENT.—The process described in subparagraph (A) shall be conducted in a timely manner to ensure that—

(i) any recommendation for a proposed rule or report is provided to the Secretary of Transportation not later than 9 months after the date of enactment of this Act and may include an assessment of the benefits and costs of the recommendations; and

(ii) a final rule is promulgated not later than 18 months after the date of enactment of this Act.

(c) GRANTS TO STATES.—

(1) ASSISTANCE IN MEETING FEDERAL STANDARDS.—Beginning on the date a final regulation is promulgated under subsection (b)(2), the Secretary of Transportation shall award grants to States to assist them in conforming to the minimum standards for driver's licenses and personal identification cards set forth in the regulation.

(2) ALLOCATION OF GRANTS.—The Secretary of Transportation shall award grants to States under this subsection based on the proportion that the estimated average annual number of driver's licenses and personal identification cards issued by a State applying for a grant bears to the average annual number of such documents issued by all States.

(3) MINIMUM ALLOCATION.—Notwithstanding paragraph (2), each State shall receive not less than 0.5 percent of the grant funds made available under this subsection.

(d) EXTENSION OF EFFECTIVE DATE.—The Secretary of Transportation may extend the date specified under subsection (b)(1)(A) for up to 2 years for driver's licenses issued by a State if the Secretary determines that the State made reasonable efforts to comply with the date under such subsection but was unable to do so.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out this section.

SEC. ___08. SOCIAL SECURITY CARDS.

(a) SECURITY ENHANCEMENTS.—The Commissioner of Social Security shall—

(1) not later than 180 days after the date of enactment of this section, issue regulations to restrict the issuance of multiple replacement social security cards to any individual to minimize fraud;

(2) within 1 year after the date of enactment of this section, require independent verification of all records provided by an applicant for an original social security card, other than for purposes of enumeration at birth; and

(3) within 18 months after the date of enactment of this section, add death, fraud, and work authorization indicators to the social security number verification system.

(b) INTERAGENCY SECURITY TASK FORCE.—The Commissioner of Social Security, in consultation with the Secretary of Homeland Security, shall form an interagency task force for the purpose of further improving the security of social security cards and numbers. Not later than 1 year after the date of enactment of this section, the task force shall establish security requirements, including—

(1) standards for safeguarding social security cards from counterfeiting, tampering, alteration, and theft;

(2) requirements for verifying documents submitted for the issuance of replacement cards; and

(3) actions to increase enforcement against the fraudulent use or issuance of social security numbers and cards.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commissioner of Social Security for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out this section.

SEC. ___9. EFFECTIVE DATE.

Notwithstanding any other provision of this Act, this title shall take effect on the date of enactment of this Act.

SA 3808. Mr. LEVIN 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 14, line 2, strike ''community,'' and insert ''community following receipt of intelligence needs and requirements from the consumers of national intelligence,''.

On page 14, line 8, insert before the semicolon the following: '', while ensuring that the elements of the intelligence community are able to conduct independent analyses so as to achieve, to the maximum extent practicable, competitive analyses''.

SA 3809. Mr. LEVIN 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 28, line 17, strike ''or'' at the end.

On page 28, line 19, strike the period and insert ''; and''.

On page 28, between lines 19 and 20, insert the following:

(D) the personnel involved are not military personnel and the funds were not appropriated to military personnel appropriations, except that the Director may make a transfer of such personnel or funds if the Secretary of Defense does not object to such transfer.

On page 91, between lines 12 and 13, insert the following:

(C) Nothing in this subsection shall be construed to authorize the National Intelligence Director to specify, or require the head of a department, agency, or element of the United States Government to approve a request for, the transfer, assignment, or detail of military personnel, except that the Director may take such action with regard to military personnel if the Secretary of Defense does not object to such action.

On page 98, between lines 21 and 22, insert the following:

(C) Nothing in this subsection shall be construed to authorize the National Intelligence Director to specify, or require the head of a department, agency, or element of the United States Government to approve a request for, the transfer, assignment, or detail of military personnel, except that the Director may take such action with regard to military personnel if the Secretary of Defense does not object to such action.

On page 98, between lines 21 and 22, insert the following:

(C) Nothing in this subsection shall be construed to authorize the National Intelligence Director to specify, or require the head of a department, agency, or element of the United States Government to approve a request for, the transfer, assignment, or detail of military personnel, except that the Director may take such action with regard to military personnel if the Secretary of Defense does not object to such action.

On page 7, beginning on line 20, strike ''that is not part of the National Foreign Intelligence Program as of the date of the enactment of this Act''.

SA 3811. Mr. MCCONNELL 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:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE ON IMPORTANCE OF ATTENDANCE OF SELECT COMMITTEE ON INTELLIGENCE MEETINGS.

(a) FINDINGS.—It is the sense of the Senate that—

(1) the 9/11 Commission concluded that informed and knowledgeable congressional oversight of the intelligence community is crucial to ensure the effective functioning of the Nation's intelligence services;

(2) to ensure that Representatives and Senators who serve on a congressional Committee on Intelligence develop relevant expertise about the functioning of the intelligence community, the 9/11 Commission recommended, for example, that Congress abolish term limits for Members who serve on these committees;

(3) it is difficult for Senators who serve on the Select Committee on Intelligence to become informed and knowledgeable about the intelligence field, and thereby develop the requisite expertise in that area, if they do not regularly attend hearings held by the Select Committee on Intelligence; and

(4) because Senators who are Members of the Select Committee on Intelligence yet do not regularly attend hearings held by the Select Committee on Intelligence are not informed and knowledgeable about the intelligence field, and do not develop the requisite expertise in that area, those Senators fail to discharge their responsibility to oversee the intelligence community.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that those Senators who serve on the Select Committee on Intelligence and who, for a given Congress, miss more than 75 percent of the hearings held by the Select Committee on Intelligence, should be ineligible to continue to serve on that committee.

SA 3812. Mr. MCCONNELL 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:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE THAT THE UNITED STATES IS SAFER.

(a) FINDINGS.—It is the sense of the Senate that—

(1) as recognized by the 9/11 Commission in its report, since September 11th, 2001, the United States of America and its allies have killed or captured a majority of al Qaeda's leadership; toppled the Taliban, which gave al Qaeda sanctuary in Afghanistan; and severely damaged the organization; and

(2) since September 11, 2001 Congress has—

(A) passed, and the President has signed into law, the PATRIOT Act;

(B) created the Department of Homeland security;

(C) created the Terrorist Threat Integration Center;

(D) created the Transportation Safety Administration;

(E) reorganized the Federal Bureau of Investigation; and

(F) signed the Smart Border Declaration,

just to name 6 offensive measures, all with the goal of making America safer and protecting our citizens in this global war on terrorism.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the 9/11 Commission Report was correct in its assessment that the United States of America is safer today than it was before the terrorist attacks of September 11, 2001.

SA 3813. Mr. REED 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:

At the appropriate place, insert the following:

SEC. ___. LIQUEFIED NATURAL GAS MARINE TERMINALS.

Congress finds that plans developed by the Department of Homeland Security to protect critical energy infrastructure should include risk assessments and protective measures for existing and proposed liquefied natural gas marine terminals.

SA 3814. Mr. BINGAMAN 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 ____, between lines ____ and ____, insert the following:

(2) regions of specific concern where United States foreign assistance should be targeted to assist governments in efforts to prevent the use of such regions as terrorist sanctuaries are South Asia, Southeast Asia, West Africa, the Horn of Africa, North and North Central Africa, the Arabian peninsula, Central and Eastern Europe, and South America;

SA 3815. Mr. ROCKEFELLER (for himself, Mrs. HUTCHISON, Mr. ROBERTS, and Ms. MIKULSKI) 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; as follows:

On page 17, between lines 19 and 20, insert the following:

(11) direct an element or elements of the intelligence community to conduct competitive analysis of analytic products, particularly products having national importance;

(12) implement policies and procedures to encourage sound analytic methods and tradecraft throughout the elements of the intelligence community and to ensure that the elements of the intelligence community regularly conduct competitive analysis of analytic products, whether such products are produced by or disseminated to such elements;

On page 17, line 20, strike ''(11)'' and insert ''(13)''.

On page 17, line 22, strike ''(12)'' and insert ''(14)''.

On page 18, line 1, strike ''(13)'' and insert ''(15)''.

On page 18, line 4, strike ''(14)'' and insert ''(16)''.

On page 18, line 7, strike ''(15)'' and insert ''(17)''.

On page 18, line 14, strike ''(16)'' and insert ''(18)''.

On page 18, line 17, strike ''(17)'' and insert ''(19)''.

On page 18, line 20, strike ''(18)'' and insert ''(20)''.

On page 19, line 5, strike ''(19)'' and insert ''(21)''.

On page 19, line 7, strike ''(20)'' and insert ''(22)''.

On page 31, line 1, strike ''112(a)(16)'' and insert ''112(a)(18)''.

On page 49, line 13, insert '', and each other National Intelligence Council product'' after ''paragraph (1)''.

On page 49, line 15, insert ''or product'' after ''estimate''.

On page 49, line 17, insert ''or product'' after ''estimate''.

On page 49, line 19, insert ''or product'' after ''estimate''.

On page 49, line 22, strike ''such estimate and such estimate'' and insert ''such estimate or product and such estimate or product, as the case may be''.

On page 49, line 24, insert ''or product'' after ''estimate''.

On page 51, between lines 5 and 6, insert the following:

(i) NATIONAL INTELLIGENCE COUNCIL PRODUCT.—For purposes of this section, the term ''National Intelligence Council product'' includes a National Intelligence Estimate and any other intelligence community assessment that sets forth the judgment of the intelligence community as a whole on a matter covered by such product.

On page 56, line 20, strike ''(15) and (16)'' and insert ''(17) and (18)''.

On page 87, line 16, strike ''and'' at the end.

On page 87, between lines 16 and 17, insert the following:

(D) conduct, or recommend to the National Intelligence Director to direct an element or elements of the intelligence community to conduct, competitive analyses of intelligence products relating to suspected terrorists, their organizations, and their capabilities, plans, and intentions, particularly products having national importance;

(E) implement policies and procedures to encourage coordination by all elements of the intelligence community that conduct analysis of intelligence regarding terrorism of all Directorate products of national importance and, as appropriate, other products, before their final dissemination; and

On page 87, line 17, strike ''(D)'' and insert ''(F)''.

On page 96, line 16, strike ''foreign''.

On page 100, between lines 3 and 4, insert the following:

SEC. 145. OFFICE OF ALTERNATIVE ANALYSIS.

(a) OFFICE OF ALTERNATIVE ANALYSIS.—There is within the National Intelligence Authority an Office of Alternative Analysis.

(b) HEAD OF OFFICE.—The National Intelligence Director shall appoint the head of the Office of Alternative Analysis.

(c) INDEPENDENCE OF OFFICE.—The National Intelligence Director shall take appropriate actions to ensure the independence of the Office of Alternative Analysis in its activities under this section.

(d) FUNCTION OF OFFICE.—(1) The Office of Alternative Analysis shall subject each National Intelligence Estimate (NIE), before the completion of such estimate, to a thorough examination of all facts, assumptions, analytic methods, and judgments utilized in or underlying any analysis, estimation, plan, evaluation, or recommendation contained in such estimate.

(2)(A) The Office may also subject any other intelligence estimate, brief, survey, assessment, or report designated by the National Intelligence Director to a thorough examination as described in paragraph (1).

(B) Not later than 180 days after the date of the enactment of this Act, the Director shall submit to the congressional intelligence committees a report on the estimates, briefs, surveys, assessments or reports, if any, designated by the Director under subparagraph (A).

(3)(A) The purpose of an evaluation of an estimate or document under this subsection shall be to provide an independent analysis of any underlying facts, assumptions, and recommendations contained in such estimate or document and to present alternative conclusions, if any, arising from such facts or assumptions or with respect to such recommendations.

(B) In order to meet the purpose set forth in subparagraph (A), the Office shall, unless otherwise directed by the President, have access to all analytic products, field reports, and raw intelligence of any element of the intelligence community and such other reports and information as the Director considers appropriate.

(4) The evaluation of an estimate or document under this subsection shall be known as a ''OAA analysis'' of such estimate or document.

(5) Each estimate or document covered by an evaluation under this subsection shall include an appendix that contains the findings and conclusions of the Office with respect to the estimate or document, as the case may be, based upon the evaluation of the estimate or document, as the case may be, by the Office under this subsection.

(6) The results of each evaluation of an estimate or document under this subsection shall be submitted to the congressional intelligence committees.

On page 194, line 9, strike ''112(a)(11)'' and insert ''112(a)(14)''.

On page 195, line 16, strike ''112(a)(11)'' and insert ''112(a)(14)''.

On page 195, line 23, strike ''112(a)(11)'' and insert ''112(a)(14)''.

On page 196, line 7, strike ''112(a)(11)'' and insert ''112(a)(14)''.

SA 3816. Mr. BINGAMAN 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 155, on line 24, strike ''information'' and insert ''information use, collection, storage, disclosure, or''.

On page 158, between lines 9 and 10, insert the following:

(C) any legislation, regulation, or policy reviewed by the Board under subsection (d)(1) if—

(i) the Board advised against the implementation of such legislation, regulation, or policy; and

(ii) the legislation, regulation, or policy was implemented; and

(D) a description of—

(i) any instance in which the Board was unable to access information under the authority in subsection (g); and

(ii) the general level of cooperation between the Board and the heads of departments, agencies, or elements of the executive branch in carrying out such authority.

SA 3817. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1728, to amend the September 11th Victim Compensation Fund of 2001 (Public Law 107–42; 49 U.S.C. 40101 note) to provide compensation for the United States Citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. *Cole* on October 12, 2000, or the attack on the World Trade Center on February 26, 1993, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001; which was referred to the Committee on the Judiciary; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Terrorism Victim Compensation Equity Act''.

SEC. 2. REFERENCES.

Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered a reference to the September 11th Victim Compensation Fund of 2001 (Public Law 107–42; 49 U.S.C. 40101 note).

SEC. 3. COMPENSATION FOR VICTIMS OF TERRORIST ACTS.

(a) DEFINITIONS.—Section 402(4) is amended by inserting '' or related to the attack on

the U.S.S. Cole on October 12, 2000'' before the period.

(b) PURPOSE.—Section 403 is amended by inserting '' or killed as a result of the attack on the U.S.S. Cole on October 12, 2000'' before the period.

(c) DETERMINATION OF ELIGIBILITY FOR COMPENSATION.—

(1) CLAIM FORM CONTENTS.—Section 405(a)(2)(B) is amended—

(A) in clause (i), by inserting ''or the attack on the U.S.S. Cole on October 12, 2000'' before the semicolon;

(B) in clause (ii), by inserting ''or attack'' before the semicolon; and

(C) in clause (iii), by inserting ''or attack'' before the period.

(2) LIMITATION.—Section 405(a)(3) is amended by striking ''2 years'' and inserting ''4 years''.

(3) COLLATERAL COMPENSATION.—Section 405(b)(6) is amended by inserting ''or the attack on the U.S.S. Cole on October 12, 2000'' before the period.

(4) ELIGIBILITY.—

(A) INDIVIDUALS.—Section 405(c)(2)(A) is amended—

(i) in clause (i), by inserting ''or was on the U.S.S. Cole on October 12, 2000'' before the semicolon; and

(ii) by striking clause (ii) and inserting the following:

''(ii) suffered death as a result of such an air crash or suffered death as a result of such an attack;''.

(B) REQUIREMENTS.—Section 405(c)(3) is amended—

(i) in the heading for subparagraph (B) by inserting ''RELATING TO SEPTEMBER 11TH TERRORIST ACTS'' before the period; and

(ii) by adding at the end the following:

''(C) LIMITATION ON CIVIL ACTION RELATING TO OTHER TERRORIST ACTS.—

''(i) IN GENERAL.—Upon the submission of a claim under this title, the claimant involved waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained by the claimant as a result of the attack on the U.S.S. Cole on October 12, 2000. The preceding sentence does not apply to a civil action to recover any collateral source obligation based on contract, or to a civil action against any person who is a knowing participant in any conspiracy to commit any terrorist act.

''(ii) PENDING ACTIONS.—In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this title unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 4 of the Terrorism Victim Compensation Equity Act.

''(D) INDIVIDUALS WITH PRIOR COMPENSATION.—

''(i) IN GENERAL.—Subject to clause (ii), an individual is not an eligible individual for purposes of this subsection if the individual, or the estate of that individual, has received any compensation from a civil action or settlement based on tort related to the attack on the U.S.S. Cole on October 12, 2000.

''(ii) EXCEPTION.—Clause (i) shall not apply to compensation received from a civil action against any person who is a knowing participant in any conspiracy to commit any terrorist act.

''(E) VICTIMS OF ATTACK.—An individual who suffered death as a result of an attack described in subparagraph (C)(i) shall not be an eligible individual by reason of that attack, unless that individual is or was a United States citizen.''.

(C) INELIGIBILITY OF PARTICIPANTS AND CONSPIRATORS.—Section 405(c) is amended by adding at the end the following:

''(4) INELIGIBILITY OF PARTICIPANTS AND CONSPIRATORS.—An individual, or a representative of that individual, shall not be eligible to receive compensation under this title if that individual is identified by the Attorney General to have been a participant or conspirator in the attack on the U.S.S. Cole on October 12, 2000.''.

(D) ELIGIBILITY OF MEMBERS OF THE UNIFORMED SERVICES.—Section 405(c) (as amended by subparagraph (C)) is further amended by adding at the end the following:

''(5) ELIGIBILITY OF MEMBERS OF THE UNIFORMED SERVICES.—An individual who is a member of the uniformed services shall not be excluded from being an eligible individual by reason of being such a member.''.

SEC. 4. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Special Master, shall promulgate regulations to carry out the amendments made by this Act, including regulations with respect to—

(1) forms to be used in submitting claims under this Act;

(2) the information to be included in such forms;

(3) procedures for hearing and the presentation of evidence;

(4) procedures to assist an individual in filing and pursuing claims under this Act; and

(5) other matters determined appropriate by the Attorney General.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect as if enacted as part of the September 11th Victims Compensation Fund of 2001 (Public Law 107–42; 49 U.S.C. 40101 note).

SA 3818. 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:

At the appropriate place, insert the following:

SEC. ____. NATIONWIDE INTEROPERABLE BROADBAND MOBILE COMMUNICATIONS NETWORK.

(a) IN GENERAL.—Not later than June 1, 2005, the Secretary of Homeland Security shall develop technical and operational specifications and protocols for a nationwide interoperable broadband mobile communications network (referred to in this section as the ''Network'') to be used by Federal, State, and local public safety and homeland security personnel.

(b) CONSULTATION AND USE OF EXISTING TECHNOLOGIES.—In developing the Network, the Secretary of Homeland Security shall—

(1) seek input from representatives of the user communities regarding the operation and administration of the Network; and

(2) make use of existing commercial wireless technologies to the greatest extent practicable.

(c) SPECTRUM ALLOCATION.—The Assistant Secretary for Communications and Information, acting as the Administrator of the National Telecommunications and Information Administration (referred to in this section as the ''Administrator''), in cooperation with the Federal Communications Commission, other Federal agencies with responsibility for managing radio frequency spectrum, and the Secretary of Homeland Security, shall develop, not later than June 1, 2005, a plan to dedicate sufficient radio frequency spectrum for the Network.

(d) REPORTING REQUIREMENT.—Not later than January 31, 2005, the Administrator, in consultation with the Secretary of Homeland Security, shall submit a report to Congress that—

(1) describes any statutory changes that are necessary to deploy the Network;

(2) identifies the required spectrum allocation for the Network; and

(3) describes the progress made in carrying out the provisions of this section.

SA 3819. Mr. ENSIGN (for himself, Mr. KYL, Mr. CHAMBLISS, Mr. CORNYN, Mr. GRASSLEY, and Mr. SESSIONS) 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; as follows:

At the end, add the following:

TITLE IV—OTHER MATTERS

SEC. 401. RESPONSIBILITIES AND FUNCTIONS OF CONSULAR OFFICERS.

(a) INCREASED NUMBER OF CONSULAR OFFICERS.—The Secretary of State, in each of fiscal years 2006 through 2009, may increase by 150 the number of positions for consular officers above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) LIMITATION ON USE OF FOREIGN NATIONALS FOR VISA SCREENING.—

(1) IMMIGRANT VISAS.—Subsection (b) of section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following: ''All immigrant visa applications shall be reviewed and adjudicated by a consular officer.''.

(2) NONIMMIGRANT VISAS.—Subsection (d) of such section is amended by adding at the end the following: ''All nonimmigrant visa applications shall be reviewed and adjudicated by a consular officer.''.

(c) TRAINING FOR CONSULAR OFFICERS IN DETECTION OF FRAUDULENT DOCUMENTS.—Section 305(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1734(a)) is amended by adding at the end the following: ''As part of the consular training provided to such officers by the Secretary of State, such officers shall also receive training in detecting fraudulent documents and general document forensics and shall be required as part of such training to work with immigration officers conducting inspections of applicants for admission into the United States at ports of entry.''.

(d) ASSIGNMENT OF ANTI-FRAUD SPECIALISTS.—

(1) SURVEY REGARDING DOCUMENT FRAUD.—The Secretary of State, in coordination with the Secretary of Homeland Security, shall conduct a survey of each diplomatic and consular post at which visas are issued to assess the extent to which fraudulent documents are presented by visa applicants to consular officers at such posts.

(2) PLACEMENT OF SPECIALIST.—Not later than July 31, 2005, the Secretary of State shall, in coordination with the Secretary of Homeland Security, identify 100 of such posts that experience the greatest frequency of presentation of fraudulent documents by visa applicants. The Secretary of State shall place in each such post at least one full-time anti-fraud specialist employed by the Department of State to assist the consular officers at each such post in the detection of such fraud.

SEC. 402. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

The Secretary of Homeland Security, in each of fiscal years 2006 through 2010, shall increase by not less than 2,000 the number of

positions for full-time active duty border patrol agents within the Department of Homeland Security above the number of such positions for which funds were allotted for the preceding fiscal year.

SEC. 403. INCREASE IN FULL-TIME IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.

The Secretary of Homeland Security, in each of fiscal years 2006 through 2010, shall increase by not less than 800 the number of positions for full-time active duty investigators within the Department of Homeland Security investigating violations of immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) above the number of such positions for which funds were allotted for the preceding fiscal year. At least half of these additional investigators shall be designated to investigate potential violations of section 274A of the Immigration and Nationality Act (8 U.S.C 25 1324a). Each State shall be allotted at least 3 of these additional investigators.

SA 3820. Mr. KYL 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:

At the appropriate place, insert the following:

SEC. ___. DENIAL OF FEDERAL BENEFITS TO CONVICTED TERRORISTS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, as amended by this Act, is further amended by adding at the end the following:

"§ 2339E. Denial of Federal benefits to terrorists

''(a) IN GENERAL.—Any individual who is convicted of a Federal crime of terrorism (as defined in section 2332b(g)) shall, as provided by the court on motion of the Government, be ineligible for any or all Federal benefits for any term of years or for life.

''(b) FEDERAL BENEFIT DEFINED.—As used in this section, 'Federal benefit' has the meaning given that term in section 421(d) of the Controlled Substances Act (21 U.S.C. 862(d)).''.

(b) CHAPTER ANALYSIS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting at the end the following:

''2339E. Denial of Federal benefits to terrorists.''.

SEC. ___. PROVIDING MATERIAL SUPPORT TO TERRORISM.

(a) IN GENERAL.—Section 2339A(a) of title 18, United States Code, is amended—

(1) by striking ''Whoever'' and inserting the following:

''(1) IN GENERAL.—Any person who'';

(2) by striking ''A violation'' and inserting the following:

''(3) PROSECUTION.—A violation'';

(3) by inserting after paragraph (1) the following:

''(2) ADDITIONAL OFFENSE.—

''(A) IN GENERAL.—Any person who provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, an act of international or domestic terrorism, or in the preparation for, or in carrying out, the concealment or escape from the commission of any such act, or attempts or conspires to do so, shall be punished as provided under paragraph (1) for an offense under that paragraph.

''(B) JURISDICTION.—There is Federal jurisdiction over an offense under this paragraph if—

''(i) the offense occurs in or affects interstate or foreign commerce;

''(ii) the act of terrorism is an act of international or domestic terrorism that violates the criminal law of the United States;

''(iii) the act of terrorism is an act of domestic terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government;

''(iv) the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government, and an offender, acting within the United States or outside the territorial jurisdiction of the United States, is—

''(I) a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

''(II) an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act); or

''(III) a stateless person whose habitual residence is in the United States;

''(v) the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government, and an offender, acting within the United States, is an alien;

''(vi) the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States, and an offender, acting outside the territorial jurisdiction of the United States, is an alien; or

''(vii) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under this paragraph or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under this paragraph.''; and

(4) by inserting ''act or'' after ''underlying''.

(b) DEFINITIONS.—Section 2339A(b) of title 18, United States Code, is amended to read as follows—

''(b) DEFINITIONS.—As used in this section—

''(1) the term 'material support or resources' means any property (tangible or intangible) or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials;

''(2) the term 'training' means instruction or teaching designed to impart a specific skill, rather than general knowledge; and

''(3) the term 'expert advice or assistance' means advice or assistance derived from scientific, technical, or other specialized knowledge.''.

(c) MATERIAL SUPPORT TO FOREIGN TERRORIST ORGANIZATION.—Section 2339B(a)(1) of title 18, United States Code, is amended—

(1) by striking ''Whoever, within the United States or subject to the jurisdiction of the United States,'' and inserting the following:

''(A) IN GENERAL.—Any person who''; and

(2) by adding at the end the following:

''(B) KNOWLEDGE REQUIREMENT.—A person cannot violate this paragraph unless the person has knowledge that the organization referred to in subparagraph (A)—

''(i) is a terrorist organization;

''(ii) has engaged or engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)); or

''(iii) has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)(2)).''.

(d) JURISDICTION.—Section 2339B(d) of title 18, United States Code, is amended to read as follows:

''(d) JURISDICTION.—

''(1) IN GENERAL.—There is jurisdiction over an offense under subsection (a) if—

''(A) an offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act);

''(B) an offender is a stateless person whose habitual residence is in the United States;

''(C) an offender is brought in or found in the United States after the conduct required for the offense occurs, even if such conduct occurs outside the United States;

''(D) the offense occurs in whole or in part within the United States;

''(E) the offense occurs in or affects interstate or foreign commerce; or

''(F) an offender aids or abets any person, over whom jurisdiction exists under this paragraph, in committing an offense under subsection (a) or conspires with any person, over whom jurisdiction exists under this paragraph, to commit an offense under subsection (a).

''(2) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.''.

(e) PROVISION OF PERSONNEL.—Section 2339B of title 18, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by adding after subsection (f) the following:

''(g) PROVISION OF PERSONNEL.—No person may be prosecuted under this section in connection with the term 'personnel' unless that person has knowingly provided, attempted to provide, or conspired to provide a foreign terrorist organization with 1 or more individuals (who may be or include that person) to work under that terrorist organization's direction or control or to organize, manage, supervise, or otherwise direct the operation of that organization. Any person who acts entirely independently of the foreign terrorist organization to advance its goals or objectives shall not be considered to be working under the foreign terrorist organization's direction or control.''.

SEC. ___. RECEIVING MILITARY TYPE TRAINING FROM A FOREIGN TERRORIST ORGANIZATION.

(a) PROHIBITION AS TO CITIZENS AND RESIDENTS.—

(1) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding after section 2339E the following:

"§ 2339F. Receiving military-type training from a foreign terrorist organization

''(a) OFFENSE.—

''(1) IN GENERAL.—Whoever knowingly receives military-type training from or on behalf of any organization designated at the time of the training by the Secretary of State under section 219(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(1)) as a foreign terrorist organization, shall be fined under this title, imprisoned for ten years, or both.

''(2) KNOWLEDGE REQUIREMENT.—To violate paragraph (1), a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection

(c)(4)), that the organization has engaged or engages in terrorist activity (as defined in section 212 of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)), or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)(2)).

''(b) JURISDICTION.—

''(1) IN GENERAL.—There is jurisdiction over an offense under subsection (a) if—

''(A) an offender is a national of the United States (as defined in 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)), or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

''(B) an offender is a stateless person whose habitual residence is in the United States;

''(C) after the conduct required for the offense occurs an offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States;

''(D) the offense occurs in whole or in part within the United States;

''(E) the offense occurs in or affects interstate or foreign commerce; and

''(F) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (a), or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under subsection (a).

''(2) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

''(c) DEFINITIONS.—In this section:

''(1) MILITARY-TYPE TRAINING.—The term 'military-type training' means training in means or methods that can cause death or serious bodily injury, destroy or damage property, or disrupt services to critical infrastructure, or training on the use, storage, production, or assembly of any explosive, firearm or other weapon, including any weapon of mass destruction (as defined in section 2232a(c)(2)).

''(2) SERIOUS BODILY INJURY.—The term 'serious bodily injury' has the meaning given that term in section 1365(h)(3).

''(3) CRITICAL INFRASTRUCTURE.—The term 'critical infrastructure' means systems and assets vital to national defense, national security, economic security, public health, or safety, including both regional and national infrastructure. Critical infrastructure may be publicly or privately owned. Examples of critical infrastructure include gas and oil production, storage, or delivery systems, water supply systems, telecommunications networks, electrical power generation or delivery systems, financing and banking systems, emergency services (including medical, police, fire, and rescue services), and transportation systems and services (including highways, mass transit, airlines, and airports).

''(4) FOREIGN TERRORIST ORGANIZATION.—The term 'foreign terrorist organization' means an organization designated as a terrorist organization under section 219 (a)(1) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(1)).''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 113B of title 18, United States Code, is amended by adding at the end the following:

''2339F. Receiving military-type training from a foreign terrorist organization.''.

(b) INADMISSIBILITY OF ALIENS WHO HAVE RECEIVED MILITARY-TYPE TRAINING FROM TERRORIST ORGANIZATIONS.—Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

(1) by striking ''is inadmissable. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this chapter, to be engaged in a terrorist activity.''; and

(2) by inserting after subclause (VII) the following:

''(VIII) has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization under section 212(a)(3)(B)(vi),

is inadmissible. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this chapter, to be engaged in a terrorist activity.''.

(c) INADMISSIBILITY OF REPRESENTATIVES AND MEMBERS OF TERRORIST ORGANIZATIONS.—Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

(1) in subclause (IV), by striking item (aa) and inserting the following:

''(aa) a terrorist organization as defined under section 212(a)(3)(B)(vi), or''; and

(2) by striking subclause (V) and inserting the following:

''(V) is a member of—

''(aa) a terrorist organization as defined under section 212(a)(3)(B)(vi); or

''(bb) an organization which the alien knows or should have known is a terrorist organization,''.

(d) DEPORTATION OF ALIENS WHO HAVE RECEIVED MILITARY-TYPE TRAINING FROM TERRORIST ORGANIZATIONS.—Section 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)) is amended by adding at the end the following:

''(E) RECIPIENT OF MILITARY-TYPE TRAINING.—Any alien who has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization under section 212(a)(3)(B)(vi), is deportable.''.

(e) RETROACTIVE APPLICATION.—The amendments made by subsections (b), (c), and (d) shall apply to the receipt of military training occuring before, on, or after the date of enactment of this Act.

SA 3821. Mr. HARKIN 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 158, line 9, strike the period and insert '', including information regarding privacy and civil liberties violations, which are made by departments, agencies, or elements of the executive branch, of regulations, policies, or guidelines concerning information sharing and information collection; and''.

On page 158, between lines 9 and 10 insert the following:

(C) the minority views on any findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d).

On page 160, line 6, insert ''and the National Intelligence Director and committees of Congress described under subsection (e)(1)(B)(i)(I),'' after ''concerned''.

SA 3822. Mr. HARKIN 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 154, lines 12 and 13, strike '', regulations,'' and insert ''and approve regulations''.

On page 154, strike line 16 and insert ''and information collection guidelines under section 206;''.

On page 154, line 21, strike ''205(g)'' and insert ''206''.

On page 156, line 4, strike ''205(g)'' and insert ''206''.

On page 156, line 6, strike ''and'' after the semicolon.

On page 156, between lines 6 and 7, insert the following:

(C) the practices of the departments, agencies, and elements of the executive branch in acquiring access to the information stored and used by non-governmental entities; and

On page 156, line 7, strike ''(C)'' and insert ''(D)''.

SA 3823. Ms. COLLINS (for Mr. VOINOVICH) 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:

SEC. ____. FINANCIAL DISCLOSURE AND RECORDS.

(a) STUDY.—Not later than 180 days after the date of enactment of this Act, the Office of Government Ethics shall submit to Congress a report—

(1) evaluating the financial disclosure process for employees of the executive branch of Government; and

(2) making recommendations for improving that process.

(b) TRANSMITTAL OF RECORD RELATING TO PRESIDENTIALLY APPOINTED POSITIONS TO PRESIDENTIAL CANDIDATES.—

(1) DEFINITION.—In this section, the term ''major party'' has the meaning given that term under section 9002(6) of the Internal Revenue Code of 1986.

(2) TRANSMITTAL.—

(A) IN GENERAL.—Not later than 15 days after the date on which a major party nominates a candidate for President, the Office of Personnel Management shall transmit an electronic record to that candidate on Presidentially appointed positions.

(B) OTHER CANDIDATES.—After making transmittals under subparagraph (A), the Office of Personnel Management may transmit an electronic record on Presidentially appointed positions to any other candidate for President.

(3) CONTENT.—The record transmitted under this subsection shall provide—

(A) all positions which are appointed by the President, including the title and description of the duties of each position;

(B) the name of each person holding a position described under subparagraph (A);

(C) any vacancy in the positions described under subparagraph (A), and the period of time any such position has been vacant;

(D) the date on which an appointment made after the applicable Presidential election for any position described under subparagraph (A) is necessary to ensure effective operation of the Government; and

(E) any other information that the Office of Personnel Management determines is useful in making appointments.

(c) REDUCTION OF POSITIONS REQUIRING APPOINTMENT WITH SENATE CONFIRMATION.—

(1) DEFINITION.—In this subsection, the term ''agency'' means an Executive agency as defined under section 105 of title 5, United States Code.

(2) REDUCTION PLAN.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the head of each agency shall submit a Presidential appointment reduction plan to—

(i) the President;

(ii) the Committee on Governmental Affairs of the Senate; and

(iii) the Committee on Government Reform of the House of Representatives.

(B) CONTENT.—The plan under this paragraph shall provide for the reduction of—

(i) the number of positions within that agency that require an appointment by the President, by and with the advice and consent of the Senate; and

(ii) the number of levels of such positions within that agency.

(d) OFFICE OF GOVERNMENT ETHICS REVIEW OF CONFLICT OF INTEREST LAW.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Government Ethics, in consultation with the Attorney General of the United States, shall conduct a comprehensive review of conflict of interest laws relating to Federal employment and submit a report to—

(A) the President;

(B) the Committee on Governmental Affairs of the Senate;

(C) the Committee on the Judiciary of the Senate;

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

(E) the Committee on the Judiciary of the House of Representatives.

(2) CONTENT.—The report under this subsection shall—

(A) examine all Federal criminal conflict of interest laws relating to Federal employment, including the relevant provisions of chapter 11 of title 18, United States Code; and

(B) related civil conflict of interest laws, including regulations promulgated under section 402 of the Ethics in Government Act of 1978 (5 U.S.C. App.).

SA 3824. Mr. BIDEN (for himself and Mr. SPECTER, and Mr. KYL) 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; as follows:

At the appropriate place, insert the following new title:

TITLE ____—REDUCING CRIME AND TERRORISM AT AMERICA'S SEAPORTS

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Reducing Crime and Terrorism at America's Seaports Act of 2004''.

SEC. ___02. ENTRY BY FALSE PRETENSES TO ANY SEAPORT.

(a) IN GENERAL.—Section 1036 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking ''or'' at the end;

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

''(3) any secure or restricted area (as that term is defined under section 2285(c)) of any seaport; or'';

(2) in subsection (b)(1), by striking ''5'' and inserting ''10'';

(3) in subsection (c)(1), by inserting '', captain of the seaport,'' after ''airport authority''; and

(4) in the section heading, by inserting ''**or seaport**'' after ''**airport**''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by striking the matter relating to section 1036 and inserting the following:

''1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport or seaport.''.

(c) DEFINITION OF SEAPORT.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

''§ 25. Definition of seaport

''As used in this title, the term 'seaport' means all piers, wharves, docks, and similar structures to which a vessel may be secured, areas of land, water, or land and water under and in immediate proximity to such structures, buildings on or contiguous to such structures, and the equipment and materials on such structures or in such buildings.''.

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 1 of title 18 is amended by inserting after the matter relating to section 24 the following:

''25. Definition of seaport.''.

SEC. ___03. CRIMINAL SANCTIONS FOR FAILURE TO HEAVE TO, OBSTRUCTION OF BOARDING, OR PROVIDING FALSE INFORMATION.

(a) OFFENSE.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following:

''§ 2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information

''(a)(1) It shall be unlawful for the master, operator, or person in charge of a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to knowingly fail to obey an order by an authorized Federal law enforcement officer to heave to that vessel.

''(2) It shall be unlawful for any person on board a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to—

''(A) forcibly resist, oppose, prevent, impede, intimidate, or interfere with a boarding or other law enforcement action authorized by any Federal law, or to resist a lawful arrest; or

''(B) provide information to a Federal law enforcement officer during a boarding of a vessel regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew, which that person knows is false.

''(b) This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581), or any other provision of law enforced or administered by the Secretary of the Treasury or the Undersecretary for Border and Transportation Security of the Department of Homeland Security, or the authority of any Federal law enforcement officer under any law of the United States, to order a vessel to stop or heave to.

''(c) A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the designee of the Secretary of State.

''(d) In this section—

''(1) the term 'Federal law enforcement officer' has the meaning given the term in section 115(c);

''(2) the term 'heave to' means to cause a vessel to slow, come to a stop, or adjust its course or speed to account for the weather conditions and sea state to facilitate a law enforcement boarding;

''(3) the term 'vessel subject to the jurisdiction of the United States' has the meaning given the term in section 2(c) of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903(b)); and

''(4) the term 'vessel of the United States' has the meaning given the term in section 2(c) of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903(b)).

''(e) Any person who intentionally violates the provisions of this section shall be fined under this title, imprisoned for not more than 5 years, or both.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 109, title 18, United States Code, is amended by inserting after the item for section 2236 the following:

''2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.''.

SEC. ___04. USE OF A DANGEROUS WEAPON OR EXPLOSIVE ON A PASSENGER VESSEL.

Section 1993 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting '', passenger vessel,'' after ''transportation vehicle'';

(B) in paragraphs (2)—

(i) by inserting '', passenger vessel,'' after ''transportation vehicle''; and

(ii) by inserting ''or owner of the passenger vessel'' after ''transportation provider'' each place that term appears;

(C) in paragraph (3)—

(i) by inserting '', passenger vessel,'' after ''transportation vehicle'' each place that term appears; and

(ii) by inserting ''or owner of the passenger vessel'' after ''transportation provider'' each place that term appears;

(D) in paragraph (5)—

(i) by inserting '', passenger vessel,'' after ''transportation vehicle''; and

(ii) by inserting ''or owner of the passenger vessel'' after ''transportation provider''; and

(E) in paragraph (6), by inserting ''or owner of a passenger vessel'' after ''transportation provider'' each place that term appears;

(2) in subsection (b)(1), by inserting '', passenger vessel,'' after ''transportation vehicle''; and

(3) in subsection (c)—

(A) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9) respectively; and

(B) by inserting after paragraph (5) the following:

''(6) the term 'passenger vessel' has the meaning given that term in section 2101(22) of title 46, United States Code, and includes a small passenger vessel, as that term is defined under section 2101(35) of that title.''.

SEC. ___05. CRIMINAL SANCTIONS FOR VIOLENCE AGAINST MARITIME NAVIGATION, PLACEMENT OF DESTRUCTIVE DEVICES, AND MALICIOUS DUMPING.

(a) VIOLENCE AGAINST MARITIME NAVIGATION.—Section 2280(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (H), by striking ''(G)'' and inserting ''(H)'';

(B) by redesignating subparagraphs (F), (G), and (H) as subparagraphs (G), (H), and (I), respectively; and

(C) by inserting after subparagraph (E) the following:

''(F) destroys, seriously damages, alters, moves, or tampers with any aid to maritime

navigation maintained by the Saint Lawrence Seaway Development Corporation under the authority of section 4 of the Act of May 13, 1954 (33 U.S.C. 984), by the Coast Guard pursuant to section 81 of title 14, United States Code, or lawfully maintained under authority granted by the Coast Guard pursuant to section 83 of title 14, United States Code, if such act endangers or is likely to endanger the safe navigation of a ship;''; and

(2) in paragraph (2) by striking ''(C) or (E)'' and inserting ''(C), (E), or (F)''.

(b) PLACEMENT OF DESTRUCTIVE DEVICES.—

(1) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by adding after section 2280 the following:

''§ 2280A. Devices or substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce

''(a) A person who knowingly places, or causes to be placed, in navigable waters of the United States, by any means, a device or substance which is likely to destroy or cause damage to a vessel or its cargo, or cause interference with the safe navigation of vessels, or interference with maritime commerce, such as by damaging or destroying marine terminals, facilities, and any other marine structure or entity used in maritime commerce, with the intent of causing such destruction or damage, or interference with the safe navigation of vessels or with maritime commerce, shall be fined under this title, imprisoned for any term of years or for life, or both; and if the death of any person results from conduct prohibited under this subsection, may be punished by death.

''(b) Nothing in this section shall be construed to apply to otherwise lawfully authorized and conducted activities of the United States Government.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, is amended by adding after the item related to section 2280 the following:

''2280A. Devices or substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce.''.

(c) MALICIOUS DUMPING.—

(1) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following:

''§ 2282. Knowing discharge or release

''(a) ENDANGERMENT OF HUMAN LIFE.—Any person who knowingly discharges or releases oil, a hazardous material, a noxious liquid substance, or any other dangerous substance into the navigable waters of the United States or the adjoining shoreline with the intent to endanger human life, health, or welfare shall be fined under this title and imprisoned for any term of years or for life.

''(b) ENDANGERMENT OF MARINE ENVIRONMENT.—Any person who knowingly discharges or releases oil, a hazardous material, a noxious liquid substance, or any other dangerous substance into the navigable waters of the United States or the adjacent shoreline with the intent to endanger the marine environment shall be fined under this title, imprisoned not more than 30 years, or both.

''(c) DEFINITIONS.—In this section:

''(1) DISCHARGE.—The term 'discharge' means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

''(2) HAZARDOUS MATERIAL.—The term 'hazardous material' has the meaning given the term in section 2101(14) of title 46, United States Code.

''(3) MARINE ENVIRONMENT.—The term 'marine environment' has the meaning given the term in section 2101(15) of title 46, United States Code.

''(4) NAVIGABLE WATERS.—The term 'navigable waters' has the meaning given the term in section 1362(7) of title 33, and also includes the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.

''(5) NOXIOUS LIQUID SUBSTANCE.—The term 'noxious liquid substance' has the meaning given the term in the MARPOL Protocol defined in section 2(1) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)(3)).''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, is amended by adding at the end the following:

''2282. Knowing discharge or release.''.

SEC. ____06. TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.

(a) TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.—Chapter 111 of title 18, as amended by this title, is amended by adding at the end the following:

''§ 2283. Transportation of explosive, biological, chemical, or radioactive or nuclear materials

''(a) IN GENERAL.—Any person who knowingly and willfully transports aboard any vessel within the United States, on the high seas, or having United States nationality, an explosive or incendiary device, biological agent, chemical weapon, or radioactive or nuclear material, knowing that any such item is intended to be used to commit an offense listed under section 2332b(g)(5)(B), shall be fined under this title, imprisoned for any term of years or for life, or both; and if the death of any person results from conduct prohibited by this subsection, may be punished by death.

''(b) DEFINITIONS.—In this section:

''(1) BIOLOGICAL AGENT.—The term 'biological agent' means any biological agent, toxin, or vector (as those terms are defined in section 178).

''(2) BY-PRODUCT MATERIAL.—The term 'by-product material' has the meaning given that term in section 11(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)).

''(3) CHEMICAL WEAPON.—The term 'chemical weapon' has the meaning given that term in section 229F.

''(4) EXPLOSIVE OR INCENDIARY DEVICE.—The term 'explosive or incendiary device' has the meaning given the term in section 232(5).

''(5) NUCLEAR MATERIAL.—The term 'nuclear material' has the meaning given that term in section 831(f)(1).

''(6) RADIOACTIVE MATERIAL.—The term 'radioactive material' means—

''(A) source material and special nuclear material, but does not include natural or depleted uranium;

''(B) nuclear by-product material;

''(C) material made radioactive by bombardment in an accelerator; or

''(D) all refined isotopes of radium.

''(7) SOURCE MATERIAL.—The term 'source material' has the meaning given that term in section 11(z) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(z)).

''(8) SPECIAL NUCLEAR MATERIAL.—The term 'special nuclear material' has the meaning given that term in section 11(aa) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(aa)).

''§ 2284. Transportation of terrorists

''(a) IN GENERAL.—Any person who knowingly and willfully transports any terrorist aboard any vessel within the United States, on the high seas, or having United States nationality, knowing that the transported person is a terrorist, shall be fined under this title, imprisoned for any term of years or for life, or both.

''(b) DEFINED TERM.—In this section, the term 'terrorist' means any person who intends to commit, or is avoiding apprehension after having committed, an offense listed under section 2332b(g)(5)(B).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by this title, is amended by adding at the end the following:

''2283. Transportation of explosive, chemical, biological, or radioactive or nuclear materials.

''2284. Transportation of terrorists.''.

SEC. ____07. DESTRUCTION OR INTERFERENCE WITH VESSELS OR MARITIME FACILITIES.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 111 the following:

''CHAPTER 111A—DESTRUCTION OF, OR INTERFERENCE WITH, VESSELS OR MARITIME FACILITIES

''Sec.

''2290. Jurisdiction and scope.

''2291. Destruction of vessel or maritime facility.

''2292. Imparting or conveying false information.

''2293. Bar to prosecution.

''§2290. Jurisdiction and scope

''(a) JURISDICTION.—There is jurisdiction over an offense under this chapter if the prohibited activity takes place—

''(1) within the United States or within waters subject to the jurisdiction of the United States; or

''(2) outside United States and—

''(A) an offender or a victim is a national of the United States (as that term is defined under section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

''(B) the activity involves a vessel in which a national of the United States was on board; or

''(C) the activity involves a vessel of the United States (as that term is defined under section 2(c) of the Maritime Drug Law Enforcement Act (42 App. U.S.C. 1903(c)).

''(b) SCOPE.—Nothing in this chapter shall apply to otherwise lawful activities carried out by or at the direction of the United States Government.

''§ 2291. Destruction of vessel or maritime facility

''(a) OFFENSE.—Whoever willfully—

''(1) sets fire to, damages, destroys, disables, or wrecks any vessel;

''(2) places or causes to be placed a destructive device, as defined in section 921(a)(4), or destructive substance, as defined in section 13, in, upon, or in proximity to, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any vessel, or any part or other materials used or intended to be used in connection with the operation of a vessel;

''(3) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any maritime facility, including but not limited to, any aid to navigation, lock, canal, or vessel traffic service facility or equipment, or interferes by force or violence with the operation of such facility, if such action is likely to endanger the safety of any vessel in navigation;

''(4) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

''(5) performs an act of violence against or incapacitates any individual on any vessel, if such act of violence or incapacitation is likely to endanger the safety of the vessel or those on board;

''(6) performs an act of violence against a person that causes or is likely to cause serious bodily injury, as defined in section 1365, in, upon, or in proximity to, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

''(7) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any vessel in navigation; or

''(8) attempts or conspires to do anything prohibited under paragraphs (1) through (7):

shall be fined under this title or imprisoned not more than 20 years, or both.

''(b) LIMITATION.—Subsection (a) shall not apply to any person that is engaging in otherwise lawful activity, such as normal repair and salvage activities, and the lawful transportation of hazardous materials.

''(c) PENALTY.—Whoever is fined or imprisoned under subsection (a) as a result of an act involving a vessel that, at the time of the violation, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)) or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)), shall be fined under title 18, imprisoned for a term up to life, or both.

''(d) PENALTY WHEN DEATH RESULTS.—Whoever is convicted of any crime prohibited by subsection (a), which has resulted in the death of any person, shall be subject also to the death penalty or to imprisonment for life.

''(e) THREATS.—Whoever willfully imparts or conveys any threat to do an act which would violate this chapter, with an apparent determination and will to carry the threat into execution, shall be fined under this title, imprisoned not more than 5 years, or both, and is liable for all costs incurred as a result of such threat.

''§ 2292. Imparting or conveying false information

''(a) IN GENERAL.—Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this chapter or by chapter 111 of this title, shall be subject to a civil penalty of not more than $5,000, which shall be recoverable in a civil action brought in the name of the United States.

''(b) MALICIOUS CONDUCT.—Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt to do any act which would be a crime prohibited by this chapter or by chapter 111 of this title, shall be fined under this title, imprisoned not more than 5 years, or both.

''(c) JURISDICTION.—

''(1) IN GENERAL.—Except as provided under paragraph (2), section 2290(a) shall not apply to any offense under this section.

''(2) JURISDICTION.—Jurisdiction over an offense under this section shall be determined in accordance with the provisions applicable to the crime prohibited by this chapter, or by chapter 2, 97, or 111 of this title, to which the imparted or conveyed false information relates, as applicable.

''§ 2293. Bar to prosecution

''(a) IN GENERAL.—It is a bar to prosecution under this chapter if—

''(1) the conduct in question occurred within the United States in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed; or

''(2) such conduct is prohibited as a misdemeanor under the law of the State in which it was committed.

''(b) DEFINITIONS.—In this section:

''(1) LABOR DISPUTE.—The term ''labor dispute'' has the same meaning given that term in section 113(c) of the Norris-LaGuardia Act (29 U.S.C. 113(c)).

''(2) STATE.—The term ''State'' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters at the beginning of title 18, United States Code, is amended by inserting after the item for chapter 111 the following:

''111A. Destruction of, or interference with, vessels or maritime facilities ..... 2290''.

SEC. ___08. THEFT OF INTERSTATE OR FOREIGN SHIPMENTS OR VESSELS.

(a) THEFT OF INTERSTATE OR FOREIGN SHIPMENTS.—Section 659 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting ''trailer,'' after ''motortruck,'';

(B) by inserting ''air cargo container,'' after ''aircraft,''; and

(C) by inserting '', or from any intermodal container, trailer, container freight station, warehouse, or freight consolidation facility,'' after ''air navigation facility'';

(2) in the fifth undesignated paragraph, by striking ''one year'' and inserting ''3 years''; and

(3) by inserting after the first sentence in the eighth undesignated paragraph the following: ''For purposes of this section, goods and chattel shall be construed to be moving as an interstate or foreign shipment at all points between the point of origin and the final destination (as evidenced by the waybill or other shipping document of the shipment), regardless of any temporary stop while awaiting transshipment or otherwise.''.

(b) STOLEN VESSELS.—

(1) IN GENERAL.—Section 2311 of title 18, United States Code, is amended by adding at the end the following:

'' 'Vessel' means any watercraft or other contrivance used or designed for transportation or navigation on, under, or immediately above, water.''.

(2) TRANSPORTATION AND SALE OF STOLEN VESSELS.—Sections 2312 and 2313 of title 18, United States Code, are each amended by striking ''motor vehicle or aircraft'' each place that term appears and inserting ''motor vehicle, vessel, or aircraft''.

(c) REVIEW OF SENTENCING GUIDELINES.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall review the Federal Sentencing Guidelines to determine whether sentencing enhancement is appropriate for any offense under section 659 or 2311 of title 18, United States Code, as amended by this title.

(d) ANNUAL REPORT OF LAW ENFORCEMENT ACTIVITIES.—The Attorney General shall annually submit to Congress a report, which shall include an evaluation of law enforcement activities relating to the investigation and prosecution of offenses under section 659 of title 18, United States Code, as amended by this title.

(e) REPORTING OF CARGO THEFT.—The Attorney General shall take the steps necessary to ensure that reports of cargo theft collected by Federal, State, and local officials are reflected as a separate category in the Uniform Crime Reporting System, or any successor system, by not later than December 31, 2005.

SEC. ___09. INCREASED PENALTIES FOR NONCOMPLIANCE WITH MANIFEST REQUIREMENTS.

(a) REPORTING, ENTRY, CLEARANCE REQUIREMENTS.—Section 436(b) of the Tariff Act of 1930 (19 U.S.C. 1436(b)) is amended by—

(1) striking ''or aircraft pilot'' and inserting '', aircraft pilot, operator, owner of such vessel, vehicle or aircraft or any other responsible party (including non-vessel operating common carriers)'';

(2) striking ''$5,000'' and inserting ''$10,000''; and

(3) striking ''$10,000'' and inserting ''$25,000''.

(b) CRIMINAL PENALTY.—Section 436(c) of the Tariff Act of 1930 (19 U.S.C. 1436(c)) is amended by striking ''$2,000'' and inserting ''$10,000''.

(c) FALSITY OR LACK OF MANIFEST.—Section 584(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1584(a)(1)) is amended by striking ''$1,000'' in each place it occurs and inserting ''$10,000''.

SEC. ___10. STOWAWAYS ON VESSELS OR AIRCRAFT.

Section 2199 of title 18, United States Code, is amended by striking ''Shall be fined under this title or imprisoned not more than one year, or both.'' and inserting the following:

''(1) shall be fined under this title, imprisoned not more than 5 years, or both;

''(2) if the person commits an act proscribed by this section, with the intent to commit serious bodily injury, and serious bodily injury occurs (as defined under section 1365, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242) to any person other than a participant as a result of a violation of this section, shall be fined under this title, imprisoned not more than 20 years, or both; and

''(3) if an individual commits an act proscribed by this section, with the intent to cause death, and if the death of any person other than a participant occurs as a result of a violation of this section, shall be fined under this title, imprisoned for any number of years or for life, or both.''.

SEC. ___11. BRIBERY AFFECTING PORT SECURITY.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

''§ 226. Bribery affecting port security

''(a) IN GENERAL.—Whoever knowingly—

''(1) directly or indirectly, corruptly gives, offers, or promises anything of value to any public or private person, with intent—

''(A) to commit international or domestic terrorism (as that term is defined under section 2331);

''(B) to influence any action or any person to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud affecting any secure or restricted area or seaport; or

''(C) to induce any official or person to do or omit to do any act in violation of the fiduciary duty of such official or person which affects any secure or restricted area or seaport; or

''(2) directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to

receive or accept anything of value personally or for any other person or entity in return for—

''(A) being influenced in the performance of any official act affecting any secure or restricted area or seaport; and

''(B) knowing that such influence will be used to commit, or plan to commit, international or domestic terrorism

''shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) DEFINITION.—In this section, the term 'secure or restricted area' has the meaning given that term in section 2285(c).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end the following:

''226. Bribery affecting port security.''.

SA 3825. Mr. LEVIN (for himself and Mr. ALEXANDER) submitted an amendment intended to be propsed by him to the bill S. 2845, to reform the intelligence community and the intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PRIVATE SECURITY OFFICER EMPLOYMENT AUTHORIZATION ACT OF 2004.

(a) SHORT TITLE.—This section may be cited as the ''Private Security Officer Employment Authorization Act of 2004''.

(b) FINDINGS.—Congress finds that—

(1) employment of private security officers in the United States is growing rapidly;

(2) private security officers function as an adjunct to, but not a replacement for, public law enforcement by, among other things, helping to protect critical infrastructure, including hospitals, manufacturing facilities, defense and aerospace contractors, nuclear power plants, chemical companies, oil and gas refineries, airports, communication facilities and operations, and others;

(3) the 9-11 Commission Report says that ''Private sector preparedness is not a luxury; it is a cost of doing business in the post-9/11 world. It is ignored at a tremendous potential cost in lives, money, and national security'' and endorsed adoption of the American National Standards Institute's standard for private preparedness;

(4) part of improving private sector preparedness is mitigating the risks of terrorist attack on critical infrastructure by ensuring that private security officers who protect those facilities are properly screened to determine their suitability;

(5) the American public deserves the employment of qualified, well-trained private security personnel as an adjunct to sworn law enforcement officers; and

(6) private security officers and applicants for private security officer positions should be thoroughly screened and trained.

(c) DEFINITIONS.—In this section:

(1) EMPLOYEE.—The term ''employee'' includes both a current employee and an applicant for employment as a private security officer.

(2) AUTHORIZED EMPLOYER.—The term ''authorized employer'' means any person that—

(A) employs private security officers; and

(B) is authorized by regulations promulgated by the Attorney General to request a criminal history record information search of an employee through a State identification bureau pursuant to this section.

(3) PRIVATE SECURITY OFFICER.— The term ''private security officer''—

(A) means an individual other than an employee of a Federal, State, or local government, whose primary duty is to perform security services, full- or part-time, for consideration, whether armed or unarmed and in uniform or plain clothes (except for services excluded from coverage under this section if the Attorney General determines by regulation that such exclusion would serve the public interest); but

(B) does not include—

(i) employees whose duties are primarily internal audit or credit functions;

(ii) employees of electronic security system companies acting as technicians or monitors; or

(iii) employees whose duties primarily involve the secure movement of prisoners.

(4) SECURITY SERVICES.—The term ''security services'' means acts to protect people or property as defined by regulations promulgated by the Attorney General.

(5) STATE IDENTIFICATION BUREAU.—The term ''State identification bureau'' means the State entity designated by the Attorney General for the submission and receipt of criminal history record information.

(d) CRIMINAL HISTORY RECORD INFORMATION SEARCH.—

(1) IN GENERAL.—

(A) SUBMISSION OF FINGERPRINTS.—An authorized employer may submit to the State identification bureau of a participating State, fingerprints or other means of positive identification, as determined by the Attorney General, of an employee of such employer for purposes of a criminal history record information search pursuant to this section.

(B) EMPLOYEE RIGHTS.—

(i) PERMISSION.—An authorized employer shall obtain written consent from an employee to submit to the State identification bureau of a participating State the request to search the criminal history record information of the employee under this section.

(ii) ACCESS.—An authorized employer shall provide to the employee confidential access to any information relating to the employee received by the authorized employer pursuant to this section.

(C) PROVIDING INFORMATION TO THE STATE IDENTIFICATION BUREAU.—Upon receipt of a request for a criminal history record information search from an authorized employer pursuant to this section, submitted through the State identification bureau of a participating State, the Attorney General shall—

(i) search the appropriate records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

(ii) promptly provide any resulting identification and criminal history record information to the submitting State identification bureau requesting the information.

(D) USE OF INFORMATION.—

(i) IN GENERAL.—Upon receipt of the criminal history record information from the Attorney General by the State identification bureau, the information shall be used only as provided in clause (ii).

(ii) TERMS.—In the case of—

(I) a participating State that has no State standards for qualification to be a private security officer, the State shall notify an authorized employer as to the fact of whether an employee has been—

(aa) convicted of a felony, an offense involving dishonesty or a false statement if the conviction occurred during the previous 10 years, or an offense involving the use or attempted use of physical force against the person of another if the conviction occurred during the previous 10 years; or

(bb) charged with a criminal felony for which there has been no resolution during the preceding 365 days; or

(II) a participating State that has State standards for qualification to be a private security officer, the State shall use the information received pursuant to this section in applying the State standards and shall only notify the employer of the results of the application of the State standards.

(E) FREQUENCY OF REQUESTS.—An authorized employer may request a criminal history record information search for an employee only once every 12 months of continuous employment by that employee unless the authorized employer has good cause to submit additional requests.

(2) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall issue such final or interim final regulations as may be necessary to carry out this section, including—

(A) measures relating to the security, confidentiality, accuracy, use, submission, dissemination, destruction of information and audits, and recordkeeping;

(B) standards for qualification as an authorized employer; and

(C) the imposition of reasonable fees necessary for conducting the background checks.

(3) CRIMINAL PENALTIES FOR USE OF INFORMATION.—Whoever knowingly and intentionally uses any information obtained pursuant to this section other than for the purpose of determining the suitability of an individual for employment as a private security officer shall be fined under title 18, United States Code, or imprisoned for not more than 2 years, or both.

(4) USER FEES.—

(A) IN GENERAL.—The Director of the Federal Bureau of Investigation may—

(i) collect fees to process background checks provided for by this section; and

(ii) establish such fees at a level to include an additional amount to defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs.

(B) LIMITATIONS.—Any fee collected under this subsection—

(i) shall, consistent with Public Law 101–515 and Public Law 104–99, be credited to the appropriation to be used for salaries and other expenses incurred through providing the services described in such Public Laws and in subparagraph (A);

(ii) shall be available for expenditure only to pay the costs of such activities and services; and

(iii) shall remain available until expended.

(C) STATE COSTS.—Nothing in this section shall be construed as restricting the right of a State to assess a reasonable fee on an authorized employer for the costs to the State of administering this section.

(5) STATE OPT OUT.—A State may decline to participate in the background check system authorized by this section by enacting a law or issuing an order by the Governor (if consistent with State law) providing that the State is declining to participate pursuant to this paragraph.

SA 3826. Mr. STEVENS (for himself, Mr. WARNER, and Mr. INOUYE) 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 84, beginning on line 8, strike ''joint operations'' and insert ''strategic planning''.

SA 3827. Mr. STEVENS 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 130, strike line 20 and all that follows through page 153, line 2.

SA 3828. Mr. STEVENS (for himself, Mr. INOUYE, and Mr. WARNER) 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 7, line 12, strike ''unless'' and all that follows through line 15 and insert ''which the National Intelligence Director and the head of the department, agency, and element concerned agree to; but''.

On page 12, line 22, strike ''consultation'' and insert ''coordination''.

On page 13, line 6, insert before the semicolon the following: ''as agreed to in accordance with section 2(6)(A)(iii)''.

On page 13, beginning on line 9, strike ''the military intelligence'' and all that follows through line 11 and insert ''the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities programs;''.

On page 21, beginning on line 20, strike ''military intelligence'' and all that follows through line 22 and insert ''the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities programs;''.

On page 22, strike lines 1 and 2 and insert the following:
heads of departments that contain elements of the intelligence community; and

On page 22, line 3, insert '', in coordination with the heads of the departments concerned,'' after ''overseeing''.

On page 23, line 13, insert before the period the following: ''as agreed to in accordance with section 2(6)(A)(iii)''.

SA 3829. Mr. STEVENS (for himself, Mr. WARNER, and Mr. INOUYE) 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 212, strike lines 3 through 6, and insert the following:

(a) IN GENERAL.—This Act and the amendments made by this Act shall take effect one year after the date of the enactment of this Act, except that—

(1) subsections (a) and (b) of section 102 (relating to the establishment of the position of National Intelligence Director) shall take effect 90 days after the date of the enactment of this Act, and the President shall prescribe the duties of the position of National Intelligence Director that are to apply before subsections (d) and (e) of such section take effect;

(2) section 143 (relating to the establishment and operation of the National Counterterrorism Center) shall take effect 90 days after the date of the enactment of this Act, and the National Counterterrorism Center shall be operated without reference to its status under section 143(a) as an entity within the National Intelligence Authority until the National Intelligence Authority is established when section 101 takes effect;

(3) section 331 and the amendments made by such section shall take effect 90 days after the date of the enactment of this Act; and

(4) a provision of this Act shall take effect on any earlier date that the President specifies for such provision in an exercise of the authority provided in subsection (b).

SA 3830. Mr. STEVENS (for himself, Mr. WARNER, and Mr. INOUYE) 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 28, beginning on line 16, strike ''of the National Intelligence Director''.

On page 43, beginning on line 1, strike ''**OF THE NATIONAL INTELLIGENCE DIRECTOR**''.

On page 43, beginning on line 5, strike ''of the National Intelligence Director'' and insert ''for the National Intelligence Director and the Director of the Central Intelligence Agency''.

On page 43, beginning on line 17, strike ''of the National Intelligence Director''.

On page 141, between lines 16 and 17, insert the following:

(H) the Director of the Central Intelligence Agency or his designee;

On page 141, line 16, strike ''(H)'' and insert ''(I)''.

On page 141, line 18, strike ''(I)'' and insert ''(J)''.

On page 141, line 21, strike ''(J)'' and insert ''(K)''.

On page 179, beginning on line 21, strike ''and coordination of'' and all that follows through ''elements of'' beginning on line 23 and insert '', and coordinate outside the United States, the collection of national intelligence through human sources by agencies and organizations within''.

On page 194, beginning on line 23, strike ''of the National Intelligence Director''.

SA 3831. Mr. LAUTENBERG 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 59, line 14, strike ''shall'' and insert ''may''.

SA 3832. Mr. JEFFORDS 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:

At the appropriate place, insert the following:

SEC. ____. COMMUNICATIONS INTEROPERABILITY.

(a) DEFINITION.—As used in this section, the term ''interoperability'' means the ability of public safety service and support providers to talk with each other via voice and data on demand, in real time, when needed, and when authorized.

(b) NATIONAL INTEROPERABILITY STANDARDS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with appropriate representatives of Federal, State, and local government and first responders, shall adopt, by regulation, national interoperability goals and standards that—

(1) set short-term, mid-term, and long-term means and minimum performance standards for Federal agencies, States, and local governments;

(2) recognize—

(A) the value, life cycle, and technical capabilities of existing communications infrastructure;

(B) the need for cross-border interoperability between States and nations;

(C) the unique needs of small, rural communities; and

(D) the interoperability needs for daily operations and catastrophic events.

(c) NATIONAL INTEROPERABILITY IMPLEMENTATION PLAN.—

(1) DEVELOPMENT.—Not later 180 days of the completion of the development of goals and standards under subsection (b), the Secretary of Homeland Security shall develop an implementation plan that—

(A) outlines the responsibilities of the Department of Homeland Security; and

(B) focuses on providing technical and financial assistance to States and local governments for interoperability planning and implementation.

(2) EXECUTION.—The Secretary shall execute the plan developed under this subsection as soon as practicable.

(3) REPORTS.—

(A) INITIAL REPORT.—Upon the completion of the plan under subsection (c), the Secretary shall submit a report that describes such plan to—

(i) the Committee on Governmental Affairs of the Senate;

(ii) the Committee on Environment and Public Works of the Senate; and

(iii) the Select Committee on Homeland Security of the House of Representatives.

(B) ANNUAL REPORT.—Not later than 1 year after the submission of the report under subparagraph (A), and annually thereafter, the Secretary shall submit a report to the committees referred to in subparagraph (A) that describes the progress made in implementing the plan developed under this subsection.

(d) INTERNATIONAL INTEROPERABILITY.—Not later than 1 year after the date of enactment of this Act, the President shall establish a mechanism for coordinating cross-border interoperability issues between—

(1) the United States and Canada; and

(2) the United States and Mexico.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 2005 through 2009—

(1) such sums as may be necessary to carry out subsection (b);

(2) such sums as may be necessary to carry out subsection (c); and

(3) such sums as may be necessary to carry out subsection (d).

SA 3833. Mr. AKAKA 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:

At the appropriate place in the bill insert the following:

SEC. .

Reported by the Secretary of Defense on Implementation of Recommendations by the

Defense Science Board on Preventing and Defending Against Clandestine Nuclear Attack.

(A) FINDINGS.—A report of the Defense Science Board Task Force on Preventing and Defending Against Clandestine Nuclear Attack of June 2004—

(1) found that ''little has actually been done against the threat of clandestine nuclear attack'';

(2) found that nuclear weapons ''are spreading to places and regions where the prospects for effective control to prevent their loss and stem their continued spread are highly uncertain''; and

(3) called for the Department of Defense to lead an interagency task force to ''develop a multi-element, layered, global, civil/military system of systems and capabilities that would greatly reduce the likelihood of a successful clandestine nuclear attack.''

(B) REPORT.—No later than 3 months following the date of enactment of this act, the Secretary of Defense shall submit a report to the Congress describing the steps it has taken to address the recommendations of the Defense Science Board Task force on Preventing and Defending Against Clandestine Nuclear Attack.

SA 3834. Mrs. BOXER submitted an amendment intended to be proposed by her 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:

At the appropriate place, insert the following:

SEC. ___. MANDATORY IMPRISONMENT FOR FRAUD IN CONNECTION WITH INTERNATIONAL TERRORISM.

Section 1028(b)(4) of title 18, United States Code, is amended by striking ''or imprisonment for not more than 25 years, or both,'' and inserting ''and imprisonment for not more than 25 years''.

SA 3835. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for othr purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COMMUNICATION SYSTEM GRANTS.

(a) IN GENERAL.—The Secretary of Homeland Security may award grants, on a competitive basis, to States, local governments, local law enforcement agencies, and local fire departments to—

(1) improve communication systems to allow for real time, interoperable communication between State and local first responders; or

(2) purchase communication systems that allow for real time, interoperable communication between State and local first responders.

(b) APPLICATION.—Any State, local government, local law enforcement agency, or local fire department desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $300,000,000 for each of the fiscal years 2005 through 2009 to carry out the provisions of this section.

SA 3836. Mrs. BOXER submitted an amendment intended to be proposed by her 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:

At the appropriate place, insert the following:

SEC. ___. COMMUNICATION SYSTEM GRANTS.

(a) IN GENERAL.—The Secretary of Homeland Security may award grants, on a competitive basis, to States, local governments, local law enforcement agencies, and local fire departments to—

(1) improve communication systems to allow for real time, interoperable communication between State and local first responders; or

(2) purchase communication systems that allow for real time, interoperable communication between State and local first responders.

(b) APPLICATION.—Any State, local government, local law enforcement agency, or local fire department desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary for each of the fiscal years 2005 through 2009 to carry out the provisions of this section.

SA 3837. Mr. CONRAD 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:

At the end, add the following:

TITLE IV—ADVANCED TECHNOLOGY NORTHERN BORDER SECURITY PILOT PROGRAM

SEC. 401. ESTABLISHMENT.

The Secretary of Homeland Security shall carry out a pilot program to test various advanced technologies that will improve border security between ports of entry along the northern border of the United States.

SEC. 402. PROGRAM REQUIREMENTS.

(a) REQUIRED FEATURES.—The Secretary of Homeland Security shall design the pilot program under this title to have the following features:

(1) Use of advanced technological systems, including sensors, video, and unmanned aerial vehicles, for border surveillance.

(2) Use of advanced computing and decision integration software for—

(A) evaluation of data indicating border incursions;

(B) assessment of threat potential; and

(C) rapid real-time communication, monitoring, intelligence gathering, deployment, and response.

(3) Testing of advanced technology systems and software to determine best and most cost-effective uses of advanced technology to improve border security.

(4) Operation of the program in remote stretches of border lands with long distances between 24-hour ports of entry where the terrain is varied, the climatological and other environmental conditions vary over wide ranges between severe extremes, and the usual number of United States Border Patrol officers on regular patrol (as measured on the basis of average number per mile) is low.

(5) Capability to expand the program upon a determination by the Secretary that expansion would be an appropriate and cost-effective means of improving border security.

(b) COORDINATION WITH OTHER AGENCIES.—The Secretary of Homeland Security shall ensure that the operation of the pilot program under this title—

(1) is coordinated among United States, State and local, and Canadian law enforcement and border security agencies; and

(2) includes ongoing communication among such agencies.

SEC. 403. ADMINISTRATIVE PROVISIONS.

(a) PROCUREMENT OF ADVANCED TECHNOLOGY.—The Secretary of Homeland Security may enter into contracts for the procurement or use of such advanced technologies as the Secretary determines appropriate for the pilot program under this title.

(b) PROGRAM PARTNERSHIPS.—In carrying out the pilot program, the Secretary of Homeland Security may provide for the establishment of cooperative arrangements for participation in the pilot program by such participants as the Armed Forces, law enforcement and border security agencies referred to in section 402(b), institutions of higher education, and private sector entities.

SEC. 404. REPORT.

(a) REQUIREMENT FOR REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on the pilot program under this title.

(b) CONTENT.—The report under subsection (a) shall include the following matters:

(1) A discussion of the implementation of the pilot program, including the experience under the pilot program.

(2) A recommendation regarding expansion of the pilot program along the entire northern border of the United States and a timeline for the implementation of the expansion.

SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the pilot program under this title.

SA 3838. Mr. CONRAD 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:

At the appropriate place, insert the following:

SEC. ___. NATIONAL EMERGENCY TELEMEDICAL COMMUNICATIONS.

(a) TELEHEALTH TASK FORCE.—

(1) ESTABLISHMENT.—The Secretary of Commerce, in consultation with the Secretary of Homeland Security and the Secretary of Health and Human Services, shall establish a task force to be known as the ''National Emergency Telehealth Network Task Force'' (referred to in this subsection as the ''Task Force'') to advise the Secretary of Commerce on the use of telehealth technologies to prepare for, monitor, respond to, and manage the events of a biological, chemical, or nuclear terrorist attack or other public health emergencies.

(2) FUNCTIONS.—The Task Force shall—

(A) conduct an inventory of existing telehealth initiatives, including—

(i) the specific location of network components;

(ii) the medical, technological, and communications capabilities of such components; and

(iii) the functionality of such components;

(B) make recommendations for use by the Secretary of Commerce in establishing

standards for regional interoperating and overlapping information and operational capability response grids in order to achieve coordinated capabilities based on responses among Federal, State, and local responders;

(C) recommend any changes necessary to integrate technology and clinical practices;

(D) recommend to the Secretary of Commerce acceptable standard clinical information that could be uniformly applied and available throughout a national telemedical network and tested in the regional networks;

(E) research, develop, test, and evaluate administrative, physical, and technical guidelines for protecting the confidentiality, integrity, and availability of regional networks and all associated information and advise the Secretary of Commerce on issues of patient data security, and compliance with all applicable regulations;

(F) in consultation and coordination with the regional telehealth networks established under subsection (b), test such networks for their ability to provide support for the existing and planned efforts of State and local law enforcement, fire departments, health care facilities, and Federal and State public health agencies to prepare for, monitor, respond rapidly to, or manage the events of a biological, chemical, or nuclear terrorist attack or other public health emergencies with respect to each of the functions listed in subparagraphs (A) through (H) of subsection (b)(3); and

(G) facilitate the development of training programs for responders and a mechanism for training via enhanced advanced distributive learning.

(3) MEMBERSHIP.—The Task Force shall include representation from—

(A) relevant Federal agencies;

(B) relevant State and local government agencies including public health officials;

(C) professional associations specializing in health care; and

(D) other relevant private sector organizations, including public health and national telehealth organizations and representatives of academic and corporate information management and information technology organizations.

(4) MEETINGS AND REPORTS.—

(A) MEETINGS.—The Task Force shall meet as the Secretary of Commerce may direct.

(B) REPORT.—

(i) IN GENERAL.—Not later than 3 years after the date of enactment of this Act the Task Force shall prepare and submit a report to Congress regarding the activities of the Task Force.

(ii) CONTENTS.—The report described in clause (i) shall recommend, based on the information obtained from the regional telehealth networks established under subsection (b), whether and how to build on existing telehealth networks to develop a National Emergency Telehealth Network.

(5) IMPLEMENTATION.—The Task Force may carry out activities under this subsection in cooperation with other entities, including national telehealth organizations.

(6) TERMINATION.—The Task Force shall terminate upon submission of the final report required under paragraph (4)(B).

(b) ESTABLISHMENT OF STATE AND REGIONAL TELEHEALTH NETWORKS.—

(1) PROGRAM AUTHORIZED.—

(A) IN GENERAL.—The Secretary of Commerce, in consultation with the Secretary of Homeland Security and the Secretary of Health and Human Services, is authorized to award grants to 3 regional consortia of States to carry out pilot programs for the development of statewide and regional telehealth network testbeds that build on, enhance, and securely link existing State and local telehealth programs.

(B) DURATION.—The Secretary of Commerce shall award grants under this subsection for a period not to exceed 3 years. Such grants may be renewed.

(C) STATE CONSORTIUM PLANS.—Each regional consortium of States desiring to receive a grant under subparagraph (A) shall submit to the Secretary of Commerce a plan that describes how such consortium shall—

(i) interconnect existing telehealth systems in a functional and seamless fashion to enhance the ability of the States in the region to prepare for, monitor, respond to, and manage the events of a biological, chemical, or nuclear terrorist attack or other public health emergencies; and

(ii) link to other participating States in the region via a standard interoperable connection using standard information.

(D) PRIORITY.—In making grants under this subsection, the Secretary of Commerce shall give priority to regional consortia of States that demonstrate—

(i) the interest and participation of a broad cross section of relevant entities, including public health offices, emergency preparedness offices, and health care providers;

(ii) the ability to connect major population centers as well as isolated border, rural, and frontier communities within the region to provide medical, public health, and emergency services in response to a biological, chemical, or nuclear terrorist attack or other public health emergencies;

(iii) an existing telehealth and telecommunications infrastructure that connects relevant State agencies, health care providers, universities, and relevant Federal agencies; and

(iv) the ability to quickly complete development of a region-wide interoperable emergency telemedical network to expand communications and service capabilities and facilitate coordination among multiple medical, public health, and emergency response agencies, and the ability to test recommendations of the task force established under subsection (a) within 3 years.

(2) REGIONAL NETWORKS.—A consortium of States awarded a grant under paragraph (1) shall develop a regional telehealth network to support emergency response activities and provide medical services by linking established telehealth initiatives within the region to and with the following:

(A) First responders, such as police, firefighters, and emergency medical service providers.

(B) Front line health care providers, including hospitals, emergency medical centers, medical centers of the Department of Defense and the Department of Veterans Affairs, and public, private, community, rural, and Indian Health Service clinics.

(C) State and local public health departments, offices of rural health, and relevant Federal agencies.

(D) Experts on public health, bioterrorism, nuclear safety, chemical weapons and other relevant disciplines.

(E) Other relevant entities as determined appropriate by such consortium.

(3) FUNCTIONS OF THE NETWORKS.—Once established, a regional telehealth network under this subsection shall test the feasibility of recommendations (including recommendations relating to standard clinical information, operational capability, and associated technology and information standards) described in subparagraphs (B) through (E) of subsection (a)(2), and provide reports to the task force established under subsection (a), on such network's ability, in preparation of and in response to a biological, chemical, or nuclear terrorist attack or other public health emergencies, to support each of the following functions:

(A) Rapid emergency response and coordination.

(B) Real-time data collection for information dissemination.

(C) Environmental monitoring.

(D) Early identification and monitoring of biological, chemical, or nuclear exposures.

(E) Situationally relevant expert consultative services for patient care and front-line responders.

(F) Training of responders.

(G) Development of an advanced distributive learning network.

(H) Distance learning for the purposes of medical and clinical education, and simulation scenarios for ongoing training.

(4) REQUIREMENTS.—In awarding a grant under paragraph (1), the Secretary of Commerce shall—

(A) require that each regional network adopt common administrative, physical, and technical approaches for seamless interoperability and to protect the network's confidentiality, integrity, and availability, taking into consideration guidelines developed by the task force established under subsection (a); and

(B) require that each regional network inventory and report to the task force established under subsection (a), the technology and technical infrastructure available to such network.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $150,000,000 for fiscal years 2005, 2006, and 2007. Amounts made available under this paragraph shall remain available until expended.

(2) LIMIT ON ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amount made available for each fiscal year under paragraph (1) shall be used for Task Force administrative costs.

SA 3839. Mr. STEVENS (for himself, Mr. WARNER, and Mr. INOUYE) 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:

On page 115, strike line 13 and all that follows through page 116, line 23.

SA 3840. Mr. STEVENS (for himself, Mr. WARNER, and Mr. INOUYE) 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 109, strike line 4 and all that follows through page 113, line 3.

On page 113, line 4, strike ''**163.**'' and insert ''**162.**''.

On page 114, line 1, strike ''**164.**'' and insert ''**163.**''.

SA 3841. Mr. NELSON of Florida 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:

At the end, insert the following new title:

TITLE IV—TRANSPORTATION SECURITY

SEC. 401. WATCHLISTS FOR PASSENGERS ABOARD VESSELS.

(a) IN GENERAL.—As soon as practicable but not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall—

(1) implement a procedure under which the Department of Homeland Security compares information about passengers who are to be carried aboard a cruise ship 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 vessels or to subject them to specific additional security scrutiny, through the use of ''no transport'' and ''automatic selectee'' lists or other means.

(b) COOPERATION FROM OPERATORS OF PASSENGER VESSELS.—The Secretary of Homeland Security shall by order require operators of cruise ships to provide the passenger information necessary to implement the procedure required by subsection (a).

(c) MAINTAINING THE ACCURACY AND INTEGRITY OF THE ''NO TRANSPORT'' AND ''AUTOMATIC SELECTEE'' LISTS.—

(1) WATCHLIST DATABASE.—The Secretary of Homeland Security, in consultation with the Director of the Federal Bureau of Investigations, 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 databases.

(2) ACCURACY OF ENTRIES.—In developing the ''no transport'' and ''automatic selectee'' lists under subsection (a)(1), 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 an individual whose name is confused with, or similar to, a name in the watchlist database with a means of demonstrating that such individual is not the person named in the database.

(d) CRUISE SHIP DEFINED.—In this section, the term ''cruise ship''—

(1) means any vessel (except one described in paragraph (2)) that—

(A) weighs over 100 gross register tons;

(B) carries more than 200 passengers for hire;

(C) makes voyages lasting more than 24 hours, of which any part is on the high seas; and

(D) carries passengers who embark and disembark in the United States or its territories or possessions; and

(2) does not mean a ferry that—

(A) holds a Coast Guard Certificate of Inspection endorsed for ''Lakes, Bays, and Sounds''; and

(B) transits international waters for only short periods of time on frequent schedules.

SA 3842. Mr. AKAKA 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 69, line 12, insert ''In carrying out the duties and responsibilities specified in this Act, the Inspector General shall give particular regard to the activities of the internal audit, inspection, and investigative units of the Inspectors General of the elements of the intelligence community with a view toward avoiding duplication and ensuring effective coordination and cooperation.'' after the period.

SA 3843. Mr. BAYH 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:

At the appropriate place, insert the following:

SEC. ___. REFORM OF SENATE OVERSIGHT OF INTELLIGENCE AND HOMELAND SECURITY.

(a) ESTABLISHING A PERMANENT COMMITTEE ON INTELLIGENCE.—

(1) IN GENERAL.—There is established in the Senate a Committee on Intelligence (referred to in this subsection as the ''committee'') with majority party's representation on the committee never exceeding that of the minority party by more than one.

(2) MEMBERSHIP.—Four of the members of the committee shall be members of one of the following committees: Armed Services, Judiciary, Foreign Relations, and the Defense Appropriations Subcommittee on the Committee of Appropriations.

(3) TERM LIMITS.—Members shall serve on the committee without term limits.

(4) SUBPOENA AUTHORITY.—The committee shall have subpoena authority.

(5) STAFF AND SUBCOMMITTEE.—The committee shall have—

(A) subcommittees with at least a one subcommittee with operational oversight of the National Intelligence Program;

(B) responsibilities other than budget development; and

(C) staff appropriately sized to meet the mission of the committee.

(6) JURISDICTION.—The committee shall have sole jurisdiction over the authorization and appropriation for all programs in the National Intelligence Program.

(b) ESTABLISHING A SINGLE POINT OF JURISDICTION FOR THE DEPARTMENT OF HOMELAND SECURITY.—

(1) IN GENERAL.—There is established in the Senate a Committee on Homeland Security (referred to in this subsection as the ''committee'') with jurisdiction for the Department of Homeland Security and its duties.

(2) STAFF.—The committee shall be a permanent standing committee with a nonpartisan staff.

(3) OTHER COMMITTEES.—The jurisdiction of the committee shall supersede the jurisdiction of any other committee of the Senate.

(c) REPEAL.—S. Res. 400 (94th Congress) is repealed.

(d) EFFECTIVE DATE.—This section shall take effect on the convening of the 109th Congress.

SA 3844. Mr. BAYH 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:

At the appropriate place, insert the following:

SEC. ___. GUARANTEED HOMELAND SECURITY GRANT FUNDING.

The Secretary of Homeland Security shall ensure that each State receives an amount of grant funding in fiscal year 2005, and each subsequent fiscal year, under the State Homeland Security Grant Program, the Urban Area Security Initiative, and the Law Enforcement Terrorism Prevention Program that is not less than the amount received by such State for such programs in fiscal year 2004.

SA 3845. Mr. BYRD 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) REMOVAL.—The National Intelligence Director may be removed from office by the President. The President shall communicate to each House of Congress the reasons for the removal of a National Intelligence Director from office.

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)''.

On page 22, line 11, strike ''(f) and (g)'' and insert ''(e), (f), and (g)''.

On page 24, beginning on line 1, strike '', pursuant to subsection (e),''.

On page 24, strike line 8 and all that follows through age 25, line 20.

On page 25, line 21, strike ''(f)'' and insert ''(e)''.

On page 27, strike line 1 and all that follows through page 30, line 22, and insert the following:

(f) ROLE OF NATIONAL INTELLIGENCE DIRECTOR IN REPROGRAMMING.—(1) No funds made available under the National Intelligence Program may be transferred or reprogrammed without the prior approval of the National Intelligence Director, except in accordance with procedures prescribed by the National Intelligence Director.

(2) The Secretary of Defense shall consult with the National Intelligence Director before transferring or reprogramming funds made available under the Joint Military Intelligence Program.

(g) TRANSFER OF FUNDS OR PERSONNEL WITHIN NATIONAL INTELLIGENCE PROGRAM.—(1) In addition to any other authorities available under law for such purposes, the National Intelligence Director, with the approval of the Director of the Office of Management and Budget—

(A) may transfer funds appropriated for a program within the National Intelligence Program to another such program; and

(B) in accordance with procedures to be developed by the National Intelligence Director, the heads of the departments and agencies concerned may transfer personnel authorized for an element of the intelligence community to another such element for periods up to one year.

(2) The amounts available for transfer in the National Intelligence Program in any given fiscal year, and the terms and conditions governing such transfers, are subject to the provisions of annual appropriations Acts and this subsection.

(3)(A) A transfer of funds or personnel may be made under this subsection only if—

(i) the funds or personnel are being transferred to an activity that is a higher priority intelligence activity;

(ii) the need for funds or personnel for such activity is based on unforeseen requirements;

(iii) the transfer does not involve a transfer of funds to the Reserve for Contingencies of the National Intelligence Director;

(iv) in the case of a transfer of funds, the transfer results in a cumulative transfer of funds out of any department, agency, or element, as appropriate, funded in the National Intelligence Program in a single fiscal year—

(I) that is less than $100,000,000; and

(II) that is less than 5 percent of amounts available to such department, agency, or element; and

(v) the transfer does not terminate a program.

(B) A transfer may be made without regard to a limitation set forth in clause (iv) or (v) of subparagraph (A) if the transfer has the concurrence of the head of the department, agency, or element concerned. The authority to provide such concurrence may only be delegated by the head of the department, agency, or element concerned to the deputy of such officer.

(4) Funds transferred under this subsection shall remain available for the same period as the appropriations account to which transferred.

(5) Any transfer of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer for which notice is given to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer and how it satisfies the requirements of this subsection. In addition, the congressional intelligence committees shall be promptly notified of any transfer of funds made pursuant to this subsection in any case in which the transfer would not have otherwise required reprogramming notification under procedures in effect as of the date of the enactment of this subsection.

(6)(A) The National Intelligence Director shall promptly submit a report on any transfer of personnel under this subsection to—

(i) the congressional intelligence committees;

(ii) the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives;

(iii) in the case of the transfer of personnel to or from the Department of Defense, the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives; and

(iv) in the case of the transfer of personnel to or from the Department of Justice, to the Committees on the Judiciary of the Senate and the House of Representatives.

(B) The Director shall include in any such report an explanation of the nature of the transfer and how it satisfies the requirements of this subsection.

On page 47, line 19, insert before the period the following ``, by and with the advice and consent of the Senate''.

On page 53, line 2, insert before the period the following ``, by and with the advice and consent of the Senate''.

On page 55, beginning on line 5, strike ``the National Intelligence Director'' and insert ``the President, by and with the advice and consent of the Senate''.

On page 60, beginning on line 14, strike ``appropriately''.

On page 61, line 11, insert ``and Congress'' after ``Director''.

On page 61, line 21, strike ``significant''.

On page 63, line 16, insert ``and the congressional intelligence committees'' after ``National Intelligence Director''.

On page 138, beginning on line 21, strike ``and to Congress'' and insert ``, to the Select Committee on Intelligence and the Committees on Appropriations and Governmental Affairs of the Senate, and to the Permanent Select Committee on Intelligence and the Committees on Appropriations and Government Reform of the House of Representatives''.

On page 140, strike lines 5 through 14 and insert the following:

(2) DEPUTY DIRECTOR OF MANAGEMENT AND BUDGET FOR INFORMATION SHARING.—There is within the Office of Management and Budget a Deputy Director of Management and Budget for Information Sharing who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall carry out the day-to-day duties of the Director specified in this section. The Deputy Director shall report directly to the Director of the Office of Management and Budget. The Deputy Director shall be paid at

On page 174, strike lines 14 through 22.

SA 3846. Mr. BYRD 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; as follows:

On page 47, strike line 16 and all that follows through page 63, line 16, and insert the following:

(b) DEPUTY NATIONAL INTELLIGENCE DIRECTORS.—(1) There may be not more than four Deputy National Intelligence Directors who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) In the event of a vacancy in any position of Deputy National Intelligence Director established under this subsection, the National Intelligence Director shall recommend to the President an individual for appointment to such position.

(3) Each Deputy National Intelligence Director appointed under this subsection shall have such duties, responsibilities, and authorities as the National Intelligence Director may assign or are specified by law.

SEC. 123. NATIONAL INTELLIGENCE COUNCIL.

(a) NATIONAL INTELLIGENCE COUNCIL.—There is a National Intelligence Council.

(b) COMPOSITION.—(1) The National Intelligence Council shall be composed of senior analysts within the intelligence community and substantive experts from the public and private sector, who shall be appointed by, report to, and serve at the pleasure of, the National Intelligence Director.

(2) The Director shall prescribe appropriate security requirements for personnel appointed from the private sector as a condition of service on the Council, or as contractors of the Council or employees of such contractors, to ensure the protection of intelligence sources and methods while avoiding, wherever possible, unduly intrusive requirements which the Director considers to be unnecessary for this purpose.

(c) DUTIES AND RESPONSIBILITIES.—(1) The National Intelligence Council shall—

(A) produce national intelligence estimates for the United States Government, including alternative views held by elements of the intelligence community and other information as specified in paragraph (2);

(B) evaluate community-wide collection and production of intelligence by the intelligence community and the requirements and resources of such collection and production; and

(C) otherwise assist the National Intelligence Director in carrying out the responsibilities of the Director under section 111.

(2) The National Intelligence Director shall ensure that the Council satisfies the needs of policymakers and other consumers of intelligence by ensuring that each national intelligence estimate under paragraph (1)—

(A) states separately, and distinguishes between, the intelligence underlying such estimate and the assumptions and judgments of analysts with respect to such intelligence and such estimate;

(B) describes the quality and reliability of the intelligence underlying such estimate;

(C) presents and explains alternative conclusions, if any, with respect to the intelligence underlying such estimate and such estimate; and

(D) characterizes the uncertainties, if any, and confidence in such estimate.

(d) SERVICE AS SENIOR INTELLIGENCE ADVISERS.—Within their respective areas of expertise and under the direction of the National Intelligence Director, the members of the National Intelligence Council shall constitute the senior intelligence advisers of the intelligence community for purposes of representing the views of the intelligence community within the United States Government.

(e) AUTHORITY TO CONTRACT.—Subject to the direction and control of the National Intelligence Director, the National Intelligence Council may carry out its responsibilities under this section by contract, including contracts for substantive experts necessary to assist the Council with particular assessments under this section.

(f) STAFF.—The National Intelligence Director shall make available to the National Intelligence Council such staff as may be necessary to permit the Council to carry out its responsibilities under this section.

(g) AVAILABILITY OF COUNCIL AND STAFF.—(1) The National Intelligence Director shall take appropriate measures to ensure that the National Intelligence Council and its staff satisfy the needs of policymaking officials and other consumers of intelligence.

(2) The Council shall be readily accessible to policymaking officials and other appropriate individuals not otherwise associated with the intelligence community.

(h) SUPPORT.—The heads of the elements of the intelligence community shall, as appropriate, furnish such support to the National Intelligence Council, including the preparation of intelligence analyses, as may be required by the National Intelligence Director.

SEC. 124. GENERAL COUNSEL OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) GENERAL COUNSEL OF NATIONAL INTELLIGENCE AUTHORITY.—There is a General Counsel of the National Intelligence Authority who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) PROHIBITION ON DUAL SERVICE AS GENERAL COUNSEL OF ANOTHER AGENCY.—The individual serving in the position of General Counsel of the National Intelligence Authority may not, while so serving, also serve as the General Counsel of any other department, agency, or element of the United States Government.

(c) SCOPE OF POSITION.—The General Counsel of the National Intelligence Authority is the chief legal officer of the National Intelligence Authority.

(d) FUNCTIONS.—The General Counsel of the National Intelligence Authority shall perform such functions as the National Intelligence Director may prescribe.

SEC. 125. INTELLIGENCE COMPTROLLER.

(a) INTELLIGENCE COMPTROLLER.—There is an Intelligence Comptroller who shall be appointed from civilian life by the National Intelligence Director.

(b) SUPERVISION.—The Intelligence Comptroller shall report directly to the National Intelligence Director.

(c) DUTIES.—The Intelligence Comptroller shall—

(1) assist the National Intelligence Director in the preparation and execution of the budget of the elements of the intelligence

community within the National Intelligence Program;

(2) assist the Director in participating in the development by the Secretary of Defense of the annual budget for military intelligence programs and activities outside the National Intelligence Program;

(3) provide unfettered access to the Director to financial information under the National Intelligence Program;

(4) perform such other duties as may be prescribed by the Director or specified by law.

SEC. 126. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES OF NATIONAL INTELLIGENCE AUTHORITY.—There is an Officer for Civil Rights and Civil Liberties of the National Intelligence Authority who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) SUPERVISION.—The Officer for Civil Rights and Civil Liberties of the National Intelligence Authority shall report directly to the National Intelligence Director.

(c) DUTIES.—The Officer for Civil Rights and Civil Liberties of the National Intelligence Authority shall—

(1) assist the National Intelligence Director in ensuring that the protection of civil rights and civil liberties, as provided in the Constitution, laws, regulations, and Executive orders of the United States, is appropriately incorporated in—

(A) the policies and procedures developed for and implemented by the National Intelligence Authority;

(B) the policies and procedures regarding the relationships among the elements of the intelligence community within the National Intelligence Program; and

(C) the policies and procedures regarding the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community;

(2) oversee compliance by the Authority, and in the relationships described in paragraph (1), with requirements under the Constitution and all laws, regulations, Executive orders, and implementing guidelines relating to civil rights and civil liberties;

(3) review, investigate, and assess complaints and other information indicating possible abuses of civil rights or civil liberties, as provided in the Constitution, laws, regulations, and Executive orders of the United States, in the administration of the programs and operations of the Authority, and in the relationships described in paragraph (1), unless, in the determination of the Inspector General of the National Intelligence Authority, the review, investigation, or assessment of a particular complaint or information can better be conducted by the Inspector General;

(4) coordinate with the Privacy Officer of the National Intelligence Authority to ensure that programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and

(5) perform such other duties as may be prescribed by the Director or specified by law.

SEC. 127. PRIVACY OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) PRIVACY OFFICER OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Privacy Officer of the National Intelligence Authority who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) DUTIES.—(1) The Privacy Officer of the National Intelligence Authority shall have primary responsibility for the privacy policy of the National Intelligence Authority (including in the relationships among the elements of the intelligence community within the National Intelligence Program and the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community).

(2) In discharging the responsibility under paragraph (1), the Privacy Officer shall—

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

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

(C) conduct privacy impact assessments when appropriate or as required by law; and

(D) coordinate with the Officer for Civil Rights and Civil Liberties of the National Intelligence Authority to ensure that programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner.

SEC. 128. CHIEF INFORMATION OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) CHIEF INFORMATION OFFICER OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Chief Information Officer of the National Intelligence Authority who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Chief Information Officer of the National Intelligence Authority shall—

(1) assist the National Intelligence Director in implementing the responsibilities and executing the authorities related to information technology under paragraphs (15) and (16) of section 112(a) and section 113(h); and

(2) perform such other duties as may be prescribed by the Director or specified by law.

SEC. 129. CHIEF HUMAN CAPITAL OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) CHIEF HUMAN CAPITAL OFFICER OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Chief Human Capital Officer of the National Intelligence Authority who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Chief Human Capital Officer of the National Intelligence Authority shall—

(1) have the functions and authorities provided for Chief Human Capital Officers under sections 1401 and 1402 of title 5, United States Code, with respect to the National Intelligence Authority; and

(2) advise and assist the National Intelligence Director in exercising the authorities and responsibilities of the Director with respect to the workforce of the intelligence community as a whole.

SEC. 130. CHIEF FINANCIAL OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) CHIEF FINANCIAL OFFICER OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Chief Financial Officer of the National Intelligence Authority who shall be designated by the President, in consultation with the National Intelligence Director.

(b) DESIGNATION REQUIREMENTS.—The designation of an individual as Chief Financial Officer of the National Intelligence Authority shall be subject to applicable provisions of section 901(a) of title 31, United States Code.

(c) AUTHORITIES AND FUNCTIONS.—The Chief Financial Officer of the National Intelligence Authority shall have such authorities, and carry out such functions, with respect to the National Intelligence Authority as are provided for an agency Chief Financial Officer by section 902 of title 31, United States Code, and other applicable provisions of law.

(d) COORDINATION WITH NIA COMPTROLLER.—(1) The Chief Financial Officer of the National Intelligence Authority shall coordinate with the Comptroller of the National Intelligence Authority in exercising the authorities and performing the functions provided for the Chief Financial Officer under this section.

(2) The National Intelligence Director shall take such actions as are necessary to prevent duplication of effort by the Chief Financial Officer of the National Intelligence Authority and the Comptroller of the National Intelligence Authority.

(e) INTEGRATION OF FINANCIAL SYSTEMS.—Subject to the supervision, direction, and control of the National Intelligence Director, the Chief Financial Officer of the National Intelligence Authority shall take appropriate actions to ensure the timely and effective integration of the financial systems of the National Intelligence Authority (including any elements or components transferred to the Authority by this Act), and of the financial systems of the Authority with applicable portions of the financial systems of the other elements of the intelligence community, as soon as possible after the date of the enactment of this Act.

(f) PROTECTION OF ANNUAL FINANCIAL STATEMENT FROM DISCLOSURE.—The annual financial statement of the National Intelligence Authority required under section 3515 of title 31, United States Code—

(1) shall be submitted in classified form; and

(2) notwithstanding any other provision of law, shall be withheld from public disclosure.

SEC. 131. NATIONAL COUNTERINTELLIGENCE EXECUTIVE.

(a) NATIONAL COUNTERINTELLIGENCE EXECUTIVE.—The National Counterintelligence Executive under section 902 of the Counterintelligence Enhancement Act of 2002 (title IX of Public Law 107–306; 50 U.S.C. 402b et seq.), as amended by section 309 of this Act, is a component of the Office of the National Intelligence Director.

(b) DUTIES.—The National Counterintelligence Executive shall perform the duties provided in the Counterintelligence Enhancement Act of 2002, as so amended, and such other duties as may be prescribed by the National Intelligence Director or specified by law.

Subtitle D—Additional Elements of National Intelligence Authority

SEC. 141. INSPECTOR GENERAL OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) OFFICE OF INSPECTOR GENERAL OF NATIONAL INTELLIGENCE AUTHORITY.—There is within the National Intelligence Authority an Office of the Inspector General of the National Intelligence Authority.

(b) PURPOSE.—The purpose of the Office of the Inspector General of the National Intelligence Authority is to—

(1) create an objective and effective office, accountable to Congress, to initiate and conduct independently investigations, inspections, and audits relating to—

(A) the programs and operations of the National Intelligence Authority;

(B) the relationships among the elements of the intelligence community within the National Intelligence Program; and

(C) the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community;

(2) recommend policies designed—

(A) to promote economy, efficiency, and effectiveness in the administration of such

programs and operations, and in such relationships; and

(B) to prevent and detect fraud and abuse in such programs, operations, and relationships;

(3) provide a means for keeping the National Intelligence Director and Congress fully and currently informed about—

(A) problems and deficiencies relating to the administration of such programs and operations, and to such relationships; and

(B) the necessity for, and the progress of, corrective actions; and

(4) in the manner prescribed by this section, ensure that the congressional intelligence committees are kept similarly informed of—

(A) problems and deficiencies relating to the administration of such programs and operations, and to such relationships; and

(B) the necessity for, and the progress of, corrective actions.

(c) INSPECTOR GENERAL OF NATIONAL INTELLIGENCE AUTHORITY.—(1) There is an Inspector General of the National Intelligence Authority, who shall be the head of the Office of the Inspector General of the National Intelligence Authority, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The nomination of an individual for appointment as Inspector General shall be made—

(A) without regard to political affiliation;

(B) solely on the basis of integrity, compliance with the security standards of the National Intelligence Authority, and prior experience in the field of intelligence or national security; and

(C) on the basis of demonstrated ability in accounting, financial analysis, law, management analysis, public administration, or auditing.

(3) The Inspector General shall report directly to and be under the general supervision of the National Intelligence Director.

(4) The Inspector General may be removed from office only by the President. The President shall immediately communicate in writing to the congressional intelligence committees the reasons for the removal of any individual from the position of Inspector General.

(d) DUTIES AND RESPONSIBILITIES.—It shall be the duty and responsibility of the Inspector General of the National Intelligence Authority—

(1) to provide policy direction for, and to plan, conduct, supervise, and coordinate independently, the investigations, inspections, and audits relating to the programs and operations of the National Intelligence Authority, the relationships among the elements of the intelligence community within the National Intelligence Program, and the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community to ensure they are conducted efficiently and in accordance with applicable law and regulations;

(2) to keep the National Intelligence Director and the congressional intelligence committees

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SA 3847. Mr. BYRD 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; as follows:

On page 24, strike line 1 and all that follows through page 30, line 22, and insert the following:

appropriated to the National Intelligence Authority and under the direct jurisdiction of the National Intelligence Director.

(2) The Director shall manage and oversee the execution by each element of the intelligence community of any amounts appropriated or otherwise made available to such element under the National Intelligence Program.

(e) ROLE IN REPROGRAMMING OR TRANSFER OF NIP FUNDS BY ELEMENTS OF INTELLIGENCE COMMUNITY.—(1) No funds made available under the National Intelligence Program may be reprogrammed or transferred by any agency or element of the intelligence community without the prior approval of the National Intelligence Director except in accordance with procedures issued by the Director.

(2) The head of the department concerned shall consult with the Director before reprogramming or transferring funds appropriated or otherwise made available to an agency or element of the intelligence community that does not have any program, project, or activity within the National Intelligence Program.

(3) The Director shall, before reprogramming funds appropriated or otherwise made available for an element of the intelligence community within the National Intelligence Program, consult with the head of the department or agency having jurisdiction over such element regarding such reprogramming.

(4)(A) The Director shall consult with the appropriate committees of Congress regarding modifications of existing procedures to expedite the reprogramming of funds within the National Intelligence Program.

(B) Any modification of procedures under subparagraph (A) shall include procedures for the notification of the appropriate committees of Congress of any objection raised by the head of a department or agency to a reprogramming proposed by the Director as a result of consultations under paragraph (3).

(f) ROLE OF NATIONAL INTELLIGENCE DIRECTOR IN REPROGRAMMING.—(1) No funds made available under the National Intelligence Program may be transferred or reprogrammed without the prior approval of the National Intelligence Director, except in accordance with procedures prescribed by the National Intelligence Director.

(2) The Secretary of Defense shall consult with the National Intelligence Director before transferring or reprogramming funds made available under the Joint Military Intelligence Program.

(g) TRANSFER OF FUNDS OR PERSONNEL WITHIN NATIONAL INTELLIGENCE PROGRAM.—(1) In addition to any other authorities available under law for such purposes, the National Intelligence Director, with the approval of the Director of the Office of Management and Budget—

(A) may transfer funds appropriated for a program within the National Intelligence Program to another such program; and

(B) in accordance with procedures to be developed by the National Intelligence Director, the heads of the departments and agencies concerned may transfer personnel authorized for an element of the intelligence community to another such element for periods up to one year.

(2) The amounts available for transfer in the National Intelligence Program in any given fiscal year, and the terms and conditions governing such transfers, are subject to the provisions of annual appropriations Acts and this subsection.

(3)(A) A transfer of funds or personnel may be made under this subsection only if—

(i) the funds or personnel are being transferred to an activity that is a higher priority intelligence activity;

(ii) the need for funds or personnel for such activity is based on unforeseen requirements;

(iii) the transfer does not involve a transfer of funds to the Reserve for Contingencies of the National Intelligence Director;

(iv) in the case of a transfer of funds, the transfer results in a cumulative transfer of funds out of any department, agency, or element, as appropriate, funded in the National Intelligence Program in a single fiscal year—

(I) that is less than $100,000,000; and

(II) that is less than 5 percent of amounts available to such department, agency, or element; and

(v) the transfer does not terminate a program.

(B) A transfer may be made without regard to a limitation set forth in clause (iv) or (v) of subparagraph (A) if the transfer has the concurrence of the head of the department, agency, or element concerned. The authority to provide such concurrence may only be delegated by the head of the department, agency, or element concerned to the deputy of such officer.

(4) Funds transferred under this subsection shall remain available for the same period as the appropriations account to which transferred.

(5) Any transfer of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer for which notice is given to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer and how it satisfies the requirements of this subsection. In addition, the congressional intelligence committees shall be promptly notified of any transfer of funds made pursuant to this subsection in any case in which the transfer would not have otherwise required reprogramming notification under procedures in effect as of the date of the enactment of this subsection.

(6)(A) The National Intelligence Director shall promptly submit a report on any transfer of personnel under this subsection to—

(i) the congressional intelligence committees;

(ii) the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives;

(iii) in the case of the transfer of personnel to or from the Department of Defense, the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives; and

(iv) in the case of the transfer of personnel to or from the Department of Justice, to the Committees on the Judiciary of the Senate and the House of Representatives.

(B) The Director shall include in any such report an explanation of the nature of the transfer and how it satisfies the requirements of this subsection.

SA 3848. Mr. BYRD 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 153, strike line 5 and all that follows through page 164, line 15, and insert the following:

SEC. 211. PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

(a) IN GENERAL.—There is established as an independent establishment within the executive branch a Privacy and Civil Liberties Oversight Board (referred to in this subtitle as the ''Board'').

(b) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) In conducting the war on terrorism, the Government may need additional powers and may need to enhance the use of its existing powers.

(2) This shift of power and authority to the Government calls for an enhanced system of checks and balances to protect the precious liberties that are vital to our way of life and to ensure that the Government uses its powers for the purposes for which the powers were given.

(c) PURPOSE.—The Board shall—

(1) analyze and review actions the executive branch takes to protect the Nation from terrorism; and

(2) ensure that liberty concerns are appropriately considered in the development and implementation of laws, regulations, and policies related to efforts to protect the Nation against terrorism.

(d) FUNCTIONS.—

(1) ADVICE AND COUNSEL ON POLICY DEVELOPMENT AND IMPLEMENTATION.—The Board shall—

(A) review proposed legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the development and adoption of information sharing guidelines under section 205(g);

(B) review the implementation of new and existing legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the implementation of information sharing guidelines under section 205(g);

(C) advise the President, Congress, and the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are appropriately considered in the development and implementation of such legislation, regulations, policies, and guidelines; and

(D) in providing advice on proposals to retain or enhance a particular governmental power, consider whether the department, agency, or element of the executive branch has explained—

(i) that the power actually materially enhances security;

(ii) that there is adequate supervision of the use by the executive branch of the power to ensure protection of privacy and civil liberties; and

(iii) that there are adequate guidelines and oversight to properly confine its use.

(2) OVERSIGHT.—The Board shall continually review—

(A) the regulations, policies, and procedures, and the implementation of the regulations, policies, and procedures, of the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are protected;

(B) the information sharing practices of the departments, agencies, and elements of the executive branch to determine whether they appropriately protect privacy and civil liberties and adhere to the information sharing guidelines prescribed under section 205(g) and to other governing laws, regulations, and policies regarding privacy and civil liberties; and

(C) other actions by the executive branch related to efforts to protect the Nation from terrorism to determine whether such actions—

(i) appropriately protect privacy and civil liberties; and

(ii) are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.

(3) RELATIONSHIP WITH PRIVACY AND CIVIL LIBERTIES OFFICERS.—The Board shall—

(A) review and assess reports and other information from privacy officers and civil liberties officers described in section 212;

(B) when appropriate, make recommendations to such privacy officers and civil liberties officers regarding their activities; and

(C) when appropriate, coordinate the activities of such privacy officers and civil liberties officers on relevant interagency matters.

(4) TESTIMONY.—The Members of the Board shall appear and testify before Congress upon request.

(e) REPORTS.—

(1) IN GENERAL.—The Board shall—

(A) receive and review reports from privacy officers and civil liberties officers described in section 212; and

(B) periodically submit, not less than semiannually, reports—

(i)(I) to the appropriate committees of Congress, including the Committees on Appropriations of the Senate and the House of Representatives, the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(II) to the President; and

(ii) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

(2) CONTENTS.—Not less than 2 reports submitted each year under paragraph (1)(B) shall include—

(A) a description of the major activities of the Board during the preceding period; and

(B) information on the findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d).

(f) INFORMING THE PUBLIC.—The Board shall—

(1) make its reports, including its reports to Congress, available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

(2) hold public hearings and otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information and applicable law.

(g) ACCESS TO INFORMATION.—

(1) AUTHORIZATION.—If determined by the Board to be necessary to carry out its responsibilities under this section, the Board is authorized to—

(A) have access from any department, agency, or element of the executive branch, or any Federal officer or employee, to all relevant records, reports, audits, reviews, documents, papers, recommendations, or other relevant material, including classified information consistent with applicable law;

(B) interview, take statements from, or take public testimony from personnel of any department, agency, or element of the executive branch, or any Federal officer or employee;

(C) request information or assistance from any State, tribal, or local government; and

(D) require, by subpoena issued at the direction of a majority of the members of the Board, persons (other than departments, agencies, and elements of the executive branch, the legislative branch, and the judicial branch) to produce any relevant information, documents, reports, answers, records, accounts, papers, and other documentary or testimonial evidence.

(2) ENFORCEMENT OF SUBPOENA.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(D), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to produce the evidence required by such subpoena.

(3) AGENCY COOPERATION.—Whenever information or assistance requested under subparagraph (A) or (B) of paragraph (1) is, in the judgment of the Board, unreasonably refused or not provided, the Board shall report the circumstances to the head of the department, agency, or element concerned without delay. The head of the department, agency, or element concerned shall ensure that the Board is given access to the information, assistance, material, or personnel the Board determines to be necessary to carry out its functions.

(h) MEMBERSHIP.—

(1) MEMBERS.—The Board shall be composed of a chair, a vice chair, and five additional members, who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall designate the members of the Board who shall serve as the chair and vice chair of the Board. The vice chair of the Board shall serve as the chair of the Board in the absence of the chair of the Board.

(2) QUALIFICATIONS.—Members of the Board shall be selected solely on the basis of their professional qualifications, achievements, public stature, expertise in civil liberties and privacy, and relevant experience, and without regard to political affiliation, but in no event shall more than 3 members of the Board be members of the same political party.

(3) INCOMPATIBLE OFFICE.—An individual appointed to the Board may not, while serving on the Board, be an elected official, officer, or employee of the Federal Government, other than in the capacity as a member of the Board.

(4) TERM.—Each member of the Board shall serve a term of six years, except that—

(A) a member appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term;

(B) upon the expiration of the term of office of a member, the member shall continue to serve until the member's successor has been appointed and qualified, except that no member may serve under this subparagraph—

(i) for more than 60 days when Congress is in session unless a nomination to fill the vacancy shall have been submitted to the Senate; or

(ii) after the adjournment sine die of the session of the Senate in which such nomination is submitted; and

(C) of the members initially appointed under this subsection, two shall serve terms of two years, two shall serve terms of four years, and two shall serve terms of six years, with such terms to be allotted among such members by the President.

(5) QUORUM AND MEETINGS.—After its initial meeting, the Board shall meet upon the call of the chairman or a majority of its members. Three members of the Board shall constitute a quorum.

(6) REMOVAL.—The President may remove a member of the Board from service on the Board only for neglect of duty or malfeasance. The President shall immediately communicate to Congress notice of the removal of a member of the Board, together with a justification for the removal of the member.

(i) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION.—

(A) CHAIRMAN.—The chairman shall be compensated at the rate of pay payable for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code.

(B) MEMBERS.—Each member of the Board shall be compensated at a rate of pay payable for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Board.

(2) TRAVEL EXPENSES.—Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for persons employed intermittently by the Government under section 5703(b) of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

(j) STAFF.—

(1) APPOINTMENT AND COMPENSATION.—The Chairman, in accordance with rules agreed upon by the Board, shall appoint and fix the compensation of a full-time executive director and such other personnel as may be necessary to enable the Board to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) DETAILEES.—Any Federal employee may be detailed to the Board without reimbursement from the Board, and such detailee shall retain the rights, status, and privileges of the detailee's regular employment without interruption.

(3) CONSULTANT SERVICES.—The Board may procure the temporary or intermittent services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates that do not exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of such title.

(k) SECURITY CLEARANCES.—The appropriate departments, agencies, and elements of the executive branch shall cooperate with the Board to expeditiously provide the Board members and staff with appropriate security clearances to the extent possible under existing procedures and requirements.

(l) TRANSMITTAL OF CERTAIN MATTERS.—

(1) BUDGETS.—Whenever the Board submits to the Director of the Office of Management and Budget an estimate or request regarding the budget of the Board, the Board shall concurrently submit such estimate or request to Congress.

(2) PROPOSALS OR COMMENTS ON LEGISLATION.—

(B) PROHIBITION ON INTERFERENCE.—No officer of the executive branch may require the Board to submit a proposal for legislation, or recommendations, comments, or testimony on a proposal for legislation, to such officer for the comment, review, or approval of such officer before its submittal to Congress under subparagraph (A).

(m) TREATMENT AS AGENCY, NOT AS ADVISORY COMMITTEE.—The Board—

SA 3849. Mr. CORZINE (for himself and Mr. LAUTENBERG) 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:

At the appropriate place, insert the following:

TITLE ____—CHEMICAL FACILITIES SECURITY

SEC. ____01. SHORT TITLE.

This title may be cited as the ''Chemical Facilities Security Act of 2004''.

SEC. ____02. DEFINITIONS.

In this title:

(1) ALTERNATIVE APPROACHES.—The term ''alternative approaches'' means ways of reducing the threat of a terrorist release and the consequences of a terrorist release from a chemical source by such means as—

(A) the use of smaller quantities of substances of concern;

(B) replacement of a substance of concern with a less hazardous substance; or

(C) the use of less hazardous processes.

(2) CHEMICAL SOURCE.—

(A) IN GENERAL.—The term ''chemical source'' means a stationary source (as defined in section 112(r)(2) of the Clean Air Act (42 U.S.C. 7412(r)(2))) for which—

(i) the owner or operator is required to complete a risk management plan in accordance with section 112(r)(7)(B)(ii) of the Clean Air Act (42 U.S.C. 7412(r)(7)(B)(ii)); and

(ii) the Secretary is required to promulgate implementing regulations under section ____03(a) of this title.

(B) EXCLUSIONS.—The term ''chemical source'' does not include—

(i) any facility owned and operated by the Department of Defense or the Department of Energy; or

(ii) any facility that uses ammonia as fertilizer as an end user or holds ammonia for sale as a fertilizer at a retail facility, unless the Secretary determines that a terrorist release from the facility would pose potential harm to more than 10,000 people.

(3) CONSIDERATION OF ALTERNATIVE APPROACHES.—The term ''consideration of alternative approaches'' includes—

(A) an analysis of alternative approaches, including the benefits and risks of such approaches;

(B) the potential of the alternative approaches to prevent or reduce the threat or consequences of a terrorist release;

(C) the cost and technical feasibility of alternative approaches; and

(D) the effect of alternative approaches on product quality, product cost, and employee safety.

(4) DEPARTMENT.—The term ''Department'' means the Department of Homeland Security.

(5) ENVIRONMENT.—The term ''environment'' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(6) OWNER OR OPERATOR.—The term ''owner or operator'' has the meaning given the term in section 112(a) of the Clean Air Act (42 U.S.C. 7412(a)).

(7) PERSON.—The term ''person'' includes—

(A) the Federal Government; and

(B) a State or local government.

(8) RELEASE.—The term ''release'' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(10) SECURITY MEASURE.—

(A) IN GENERAL.—The term ''security measure'' means an action carried out to ensure or enhance the security of a chemical source.

(B) INCLUSIONS.—The term ''security measure'', with respect to a chemical source, includes measures such as—

(i) employee training and background and identification authentication checks;

(ii) the limitation and prevention of access to controls of the chemical source;

(iii) the protection of the perimeter of the chemical source;

(iv) the installation and operation of intrusion detection sensors;

(v) the implementation of measures to increase computer or computer network security;

(vi) the implementation of other security-related measures to protect against or reduce the threat of—

(I) a terrorist attack on the chemical source; or

(II) the theft of a substance of concern for offsite release in furtherance of an act of terrorism;

(vii) the installation of measures and controls to protect against or reduce the consequences of a terrorist attack; and

(viii) the conduct of any similar security-related activity, as determined by the Secretary.

(11) SUBSTANCE OF CONCERN.—The term ''substance of concern'' means—

(A) a chemical substance present at a chemical source in quantities equal to or exceeding the threshold quantities for the chemical substance, as defined in or established under paragraphs (3) and (5) of section 112(r) of the Clean Air Act (42 U.S.C. 7412(r)); and

(B) such other chemical substance as the Secretary may designate under section ____03(g).

(12) TERRORISM.—The term ''terrorism'' has the meaning given the term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(13) TERRORIST RELEASE.—The term ''terrorist release'' means—

(A) a release from a chemical source into the environment of a substance of concern that is caused by an act of terrorism; and

(B) the theft of a substance of concern by a person for off-site release in furtherance of an act of terrorism.

SEC. ____03. VULNERABILITY ASSESSMENTS AND SITE SECURITY PLANS.

(a) REQUIREMENT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations that require the owner or operator of each chemical source included on the list described in subsection (f)—

(A) to conduct an assessment of the vulnerability of the chemical source to a terrorist release, including identifying hazards that may result from a terrorist release; and

(B) to prepare and implement a site security plan that addresses the results of the vulnerability assessment.

(2) CONTENTS OF SITE SECURITY PLAN.—A site security plan required under the regulations promulgated under paragraph (1) or any other plan determined to be substantially equivalent by the Secretary under subsection (c)—

(A) shall include security measures to significantly reduce the vulnerability of the chemical source covered by the plan to a terrorist release;

(B) shall describe, at a minimum, particular equipment, plans, and procedures that could be implemented or used by or at the chemical source in the event of a terrorist release; and

(C) shall include consideration of alternative approaches and, where practicable in the judgment of the owner or operator of the chemical source, implementation of options to reduce the threat of a terrorist release through the use of alternative approaches.

(3) IMPLEMENTATION OF ALTERNATIVE APPROACHES AT HIGHEST RISK FACILITIES.—

(A) IN GENERAL.—A chemical source described in subparagraph (B) shall implement options to significantly reduce or eliminate

the threat or consequences of a terrorist release through the use of alternative approaches that would not create an equal or greater risk to human health or the environment.

(B) APPLICABILITY.—This subparagraph applies to a chemical source if the chemical source is 1 of the 123 facilities that the Secretary determines would pose a risk of harm to the greatest number of people in the event of a terrorist release, unless the owner or operator of the chemical source can demonstrate to the Secretary through an assessment of alternative approaches that available alternative approaches—

(i) would not significantly reduce the number of people at risk of death, injury, or serious adverse effects resulting from a terrorist release;

(ii) cannot practicably be incorporated into the operation of the chemical source; or

(iii) would significantly and demonstrably impair the ability of the owner or operator of the chemical source to continue its business.

(4) GUIDANCE TO CHEMICAL SOURCES.—Not later than 1 year after the date of enactment of this Act, the Secretary shall publish guidance to assist owners and operators of chemical sources in complying with this title, including advice on aspects of compliance with this title that may be unique to small businesses (including completion of analyses of alternative approaches).

(5) THREAT INFORMATION.—To the maximum extent practicable under applicable authority and in the interests of national security, the Secretary shall provide to an owner or operator of a chemical source required to prepare a vulnerability assessment and site security plan threat information that is relevant to the chemical source.

(6) COORDINATED ASSESSMENTS AND PLANS.—The regulations promulgated under paragraph (1) shall permit the development and implementation of coordinated vulnerability assessments and site security plans in any case in which more than 1 chemical source is operating at a single location or at contiguous locations, including cases in which a chemical source is under the control of more than 1 owner or operator.

(b) CERTIFICATION AND SUBMISSION.—

(1) IN GENERAL.—Each owner or operator of a chemical source shall certify in writing to the Secretary that the owner or operator has completed a vulnerability assessment and has developed and implemented or is implementing a site security plan in accordance with this title, including—

(A) regulations promulgated under subsection (a)(1); and

(B) any applicable procedures, protocols, or standards endorsed or recognized by the Secretary under subsection (c)(1).

(2) SUBMISSION.—Not later than 18 months after the date of promulgation of regulations under subsection (a)(1), an owner or operator of a chemical source shall provide to the Secretary copies of the vulnerability assessment and site security plan of the chemical source for review.

(3) REVIEW BY THE SECRETARY.—The Secretary shall review the assessments and plans submitted by the owner or operator of a chemical source under paragraph (2) to determine whether the chemical source is in compliance with—

(A) this title (including regulations promulgated under subsection (a)(1)); and

(B) other applicable procedures, protocols, or standards endorsed or recognized by the Secretary under subsection (c)(1).

(4) TIMELINE.—

(A) IN GENERAL.—The Secretary shall—

(i) conduct the review and determine compliance under this title for not fewer than 20 percent of the chemical sources required to submit assessments and response plans in each year following the submission deadline under paragraph (2); and

(ii) complete the review and determination of compliance with this title for all such facilities not later than 5 years after the deadline.

(B) SUBSEQUENT REVIEW.—After conducting reviews and determining compliance under this title for all chemical sources, the Secretary may subsequently conduct a review and determine compliance under this title for a chemical source.

(C) REVIEW OF ADDED CHEMICAL SOURCES AND UPDATED ASSESSMENTS AND PLANS.—The Secretary shall review and determine compliance under this title not later than 3 years after the date of submission of assessments and response plans for chemical sources that—

(i) update their vulnerability assessments or response plans under this paragraph or subsection (h); or

(ii) are added under subsection (f)(3).

(5) CERTIFICATE.—

(A) FACILITIES DETERMINED TO BE IN COMPLIANCE.—If the Secretary completes a review under paragraph (3) and determines that the vulnerability assessment and site security plan of a chemical source are in compliance with the requirements of this title, the Secretary shall provide to the chemical source and make available for public inspection a certificate of approval that contains the following statement (in which the first bracketed space shall contain the name of the chemical source and the second bracketed space shall contain the Public Law number assigned to this Act):

''The Secretary of Homeland Security certifies that the Department of Homeland Security has reviewed and approved the vulnerability assessment and site security plan submitted by [_____] under the Chemical Facilities Security Act of 2004 (Public Law [_____]).''.

(B) FACILITIES AWAITING REVIEW.—If a person requests a certificate of approval for a chemical source the vulnerability assessment and site security plan of which have not yet been reviewed for compliance with this title, the Secretary shall make available for public inspection a certificate that contains the following statement (in which the first bracketed space shall contain the name of the chemical source and the second bracketed space shall include the Public Law number assigned to this Act):

''The Secretary of Homeland Security's review of the vulnerability assessment and site security plan submitted by [_____] under the Chemical Facilities Security Act of 2004 (Public Law [_____]) is pending.''.

(6) DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines under paragraph (3) that a chemical source is not in compliance with the requirements of this title (including regulations promulgated under this title) the Secretary shall exercise the authority provided in section ____04.

(7) SUBMISSION OF CHANGES.—The owner or operator of a chemical source shall—

(A) not later than 90 days after the date on which any significant change is made to the vulnerability assessment or site security plan required for the chemical source under this section, provide to the Secretary a description of the change; and

(B) update the certification of the vulnerability assessment or site security plan.

(c) SPECIFIED STANDARDS.—

(1) EXISTING PROCEDURES, PROTOCOLS, AND STANDARDS.—On submission of a petition by any person to the Secretary, the Secretary may initiate a rulemaking to—

(A) endorse or recognize procedures, protocols, and standards—

(i) that are established by—

(I) industry;

(II) State or local authorities; or

(III) other applicable law; and

(ii) the requirements of which the Secretary determines to be—

(I) substantially equivalent to each of subparagraphs (A) and (B) of subsection (a)(1) and subparagraphs (A), (B), and (C) of subsection (a)(2); and

(II) in effect on or after the date of enactment of this Act; and

(B) require that a vulnerability assessment and site security plan address a particular threat or type of threat.

(2) NOTIFICATION OF SUBSTANTIAL EQUIVALENCY.—If the Secretary endorses or recognizes procedures, protocols, and standards under paragraph (1)(A), the Secretary shall provide notice to the person that submitted the petition.

(3) NO ACTION BY SECRETARY.—If the Secretary does not endorse or recognize existing procedures, protocols, and standards under paragraph (1)(A), the Secretary shall provide to each person that submitted a petition under paragraph (1) a written notification that includes a clear explanation of the reasons why the endorsement or recognition was not made.

(d) PREPARATION OF ASSESSMENTS AND PLANS.—As of the date of endorsement or recognition by the Secretary of a particular procedure, protocol, or standard under subsection (c)(1)(A), any vulnerability assessment or site security plan that is prepared by the owner or operator of a chemical source before, on, or after the date of endorsement or recognition of, and in accordance with, that procedure, protocol, or standard, shall, for the purposes of subsection (b)(3) and section ____04, be judged by the Secretary against that procedure, protocol, or standard rather than the relevant regulations promulgated under subsection (a)(1) (including such a vulnerability assessment or site security plan prepared before, on, or after the date of enactment of this Act).

(e) REGULATORY CRITERIA.—In exercising the authority under subsections (a) and (c) with respect to a chemical source, the Secretary shall consider—

(1) the likelihood that a chemical source will be the target of terrorism;

(2) the nature and quantity of the substances of concern present at a chemical source;

(3) the potential extent of death, injury, or serious adverse effects to human health or the environment that would result from a terrorist release;

(4) the potential harm to critical infrastructure and national security from a terrorist release;

(5) cost and technical feasibility;

(6) scale of operations; and

(7) such other security-related factors as the Secretary determines to be appropriate and necessary to protect the public health and welfare, critical infrastructure, and national security.

(f) LIST OF CHEMICAL SOURCES.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall develop a list of chemical sources in existence as of that date.

(2) CONSIDERATIONS.—In developing the list under paragraph (1), the Secretary shall consider the criteria specified in subsection (e).

(3) FUTURE DETERMINATIONS.—Not later than 3 years after the date of promulgation of regulations under subsection (a)(1) and every 3 years thereafter, the Secretary shall, after considering the criteria described in subsection (e)—

(A) determine whether additional stationary sources (including, as of the date of

the determination, facilities that are operational and facilities that will become operational in the future) shall be considered to be chemical sources under this title;

(B) determine whether any chemical source identified on the most recent list under paragraph (1) no longer presents a risk sufficient to justify retention of classification as a chemical source under this title; and

(C) update the list as appropriate.

(4) REGULATIONS.—The Secretary may make a determination under this subsection in regulations promulgated under subsection (a)(1).

(g) DESIGNATION, EXEMPTION, AND ADJUSTMENT OF THRESHOLD QUANTITIES OF SUBSTANCES OF CONCERN.—

(1) IN GENERAL.—The Secretary may, by regulation—

(A) designate certain chemical substances in particular threshold quantities as substances of concern under this title;

(B) exempt certain chemical substances from designation as substances of concern under this title; and

(C) adjust the threshold quantity of a chemical substance for purposes of this title.

(2) CONSIDERATIONS.—In designating or exempting a chemical substance or adjusting the threshold quantity of a chemical substance under paragraph (1), the Secretary shall consider the potential extent of death, injury, or serious adverse effects to human health or the environment that would result from a terrorist release of the chemical substance.

(3) REGULATIONS.—The Secretary may make a designation, exemption, or adjustment in regulations promulgated under subsection (a)(1).

(h) 5-YEAR REVIEW.—Not later than 5 years after the date of certification of a vulnerability assessment and a site security plan under subsection (b)(1), and not less often than every 5 years thereafter (or on such a schedule as the Secretary may establish by regulation), the owner or operator of the chemical source covered by the vulnerability assessment or site security plan shall—

(1) review the adequacy of the vulnerability assessment and site security plan; and

(2)(A) certify to the Secretary that the chemical source has completed the review and implemented any modifications to the site security plan; and

(B) submit to the Secretary a description of any changes to the vulnerability assessment or site security plan.

(i) NO PRIVATE RIGHT OF ACTION.—Nothing in this title—

(1) confers on any private person a right of action against an owner or operator of a chemical source to enforce any provision of this title;

(2) creates any liability on the part of an owner or operator of a chemical source arising out of any event that could not reasonably have been foreseen by the owner or operator; or

(3) affects any other remedies or defenses available under Federal or State law.

SEC. ___04. ENFORCEMENT.

(a) FAILURE TO COMPLY.—If an owner or operator of a chemical source fails to certify or submit a vulnerability assessment or site security plan in accordance with this title, the Secretary may issue an order requiring the certification and submission of a vulnerability assessment or site security plan in accordance with section ___03(b).

(b) DISAPPROVAL.—The Secretary may disapprove a vulnerability assessment or site security plan submitted under section ___03(b) if the Secretary determines that—

(1) the vulnerability assessment or site security plan does not comply with—

(A) a regulation promulgated under section ___03(a)(1); or

(B) a procedure, protocol, or standard endorsed or recognized under section ___03(c); or

(2) the site security plan, or the implementation of the site security plan, is insufficient to address—

(A) the results of a vulnerability assessment of a chemical source; or

(B) a threat or consequence of a terrorist release.

(c) COMPLIANCE.—If the Secretary disapproves a vulnerability assessment or site security plan of a chemical source under subsection (b), the Secretary shall—

(1) provide the owner or operator of the chemical source a written notification of the determination that includes a clear explanation of deficiencies in the vulnerability assessment, site security plan, or implementation of the assessment or plan;

(2) consult with the owner or operator of the chemical source to identify appropriate steps to achieve compliance; and

(3) if, following that consultation, the owner or operator of the chemical source does not achieve compliance by such date as the Secretary determines to be appropriate under the circumstances, issue an order requiring the owner or operator to correct specified deficiencies.

(d) EMERGENCY POWERS.—

(1) DEFINITION OF EMERGENCY THREAT.—In this subsection, the term ''emergency threat'' means a threat of a terrorist act that could result in a terrorist release at a chemical source—

(A) that is beyond the scope of the site security plan as implemented at the chemical source;

(B) the likelihood of the immediate occurrence of which is high;

(C) the consequences of which would be severe; and

(D) based on the factors described in subparagraphs (A) through (C), would not be appropriately and reasonably addressed, or addressed in a timely manner, by the Secretary under subsections (a) through (c).

(2) INITIATION OF ACTION.—

(A) IN GENERAL.—If the Secretary (in consultation with State and local law enforcement officials) determines that an emergency threat exists, the Secretary may bring a civil action on behalf of the United States in United States district court to immediately require each chemical source potentially subject to the emergency threat to take such actions as are necessary to respond to the emergency threat.

(B) NOTICE AND PARTICIPATION.—The Secretary shall provide to each chemical source that is the subject of a civil action under subparagraph (A)—

(i) notice of any injunctive relief to compel compliance with this subsection that is being sought; and

(ii) an opportunity to participate in any proceedings relating to the civil action.

(3) EMERGENCY ORDERS.—

(A) IN GENERAL.—If the Secretary determines that it is not practicable to ensure prompt action to protect public safety from an emergency threat by bringing a civil action under paragraph (2), the Secretary may issue such orders as are necessary to ensure public safety.

(B) CONSULTATION.—Before issuing an order under subparagraph (A), the Secretary shall—

(i) consult with State and local law enforcement officials; and

(ii) attempt to confirm the accuracy of the information on which the action proposed to be taken is based.

(C) EFFECTIVENESS OF ORDERS.—

(i) IN GENERAL.—An order issued by the Secretary under this paragraph shall be effective for the 60-day period beginning on the date of issuance of the order unless the Secretary brings a civil action under paragraph (2) before the expiration of that period.

(ii) EXTENSION OF EFFECTIVE PERIOD.—With respect to an order issued under this paragraph, the Secretary may bring a civil action before the end of the 60-day period described in clause (i) to extend the effective period of the order for—

(I) 14 days; or

(II) such longer period as the court in which the civil action is brought may authorize.

(e) PROTECTION OF INFORMATION.—Any determination of disapproval or order made or issued under this section shall be exempt from disclosure—

(1) under section 552 of title 5, United States Code;

(2) under any State or local law providing for public access to information; and

(3) except as provided in section ___08(d), in any Federal or State civil or administrative proceeding.

SEC. ___05. INTERAGENCY TECHNICAL SUPPORT AND COOPERATION.

The Secretary—

(1) may request other Federal agencies to provide technical and analytical support (other than field work) in carrying out this title;

(2) may provide reimbursement for such technical and analytical support received as the Secretary determines to be appropriate; and

(3) shall, in consultation with other relevant Federal agencies, take steps to minimize any duplicative administrative burdens on, or requirements of, any owner or operator of a chemical facility that are imposed by this Act and—

(A) the Maritime Transportation Security Act of 2002 (116 Stat. 2064) and the amendments made by that Act;

(B) the Public Health Security Preparedness and Bioterrorism and Response Act of 2002 (116 Stat. 594) and the amendments made by that Act; or

(C) any other Federal law.

SEC. ___06. RECORDKEEPING; SITE INSPECTIONS; PRODUCTION OF INFORMATION.

(a) RECORDKEEPING.—The owner or operator of a chemical source that is required to prepare a vulnerability assessment or site security plan under section ___03(a) shall maintain a current copy of those documents.

(b) RIGHT OF ENTRY.—In carrying out this title, the Secretary (or a designee), on presentation of credentials, shall have a right of entry to, on, or through—

(1) any premises of an owner or operator of a chemical source described in subsection (a); and

(2) any premises on which any record required to be maintained under subsection (a) is located.

(c) REQUESTS FOR RECORDS.—In carrying out this title, the Secretary (or a designee) may require the submission of, or, on presentation of credentials, may at reasonable times seek access to and copy—

(1) any records, reports, or other information described in subsection (a); and

(2) any other documentation necessary for—

(A) review or analysis of a vulnerability assessment or site security plan; or

(B) implementation of a site security plan.

(d) COMPLIANCE.—If the Secretary determines that an owner or operator of a chemical source is not maintaining, producing, or permitting access to records as required by this section, the Secretary may issue an order requiring compliance with the relevant provisions of this section.

SEC. ___07. PENALTIES.

(a) ADMINISTRATIVE PENALTIES.—

(1) PENALTY ORDERS.—The Secretary may impose an administrative penalty of not more than $250,000 for failure to comply with an order issued by the Secretary under this title.

(B) NOTICE AND HEARING.—Before issuing an order under subparagraph (A), the Secretary shall provide to the person against which the penalty is to be assessed—

(i) written notice of the proposed order; and

(ii) the opportunity to request, not later than 30 days after the date on which the person receives the notice, a hearing on the proposed order.

(3) PROCEDURES.—The Secretary may promulgate regulations establishing procedures for administrative hearings and appropriate review, including necessary deadlines.

(b) CIVIL PENALTIES.—Any owner or operator of a chemical source that violates or fails to comply with any order issued by the Secretary under this title or site security plan submitted to the Secretary under this title may, in a civil action brought in United States district court, be subject, for each day on which the violation occurs or the failure to comply continues, to—

(1) an order for injunctive relief; or

(2) a civil penalty of not more than $50,000.

(c) CRIMINAL PENALTIES.—An owner or operator of a chemical source that knowingly violates any order issued by the Secretary under this title or knowingly fails to comply with a site security plan submitted to the Secretary under this title shall be fined not more than $50,000 for each day of violation, imprisoned not more than 2 years, or both.

SEC. ___08. PROTECTION OF INFORMATION.

(a) DEFINITION OF PROTECTED INFORMATION.—

(1) IN GENERAL.—In this section, the term ''protected information'' means—

(A) a vulnerability assessment or site security plan required by subsection (a) or (b) of section ___03;

(B) any study, analysis, or other document generated by the owner or operator of a chemical source primarily for the purpose of preparing a vulnerability assessment or site security plan (including any alternative approach analysis); and

(C) any other information provided to or obtained or obtainable by the Secretary solely for the purposes of this title from the owner or operator of a chemical source that, if released, is reasonably likely to increase the probability or consequences of a terrorist release.

(2) OTHER OBLIGATIONS UNAFFECTED.—Nothing in this section affects—

(A) the handling, treatment, or disclosure of information obtained from a chemical source under any other law;

(B) any obligation of the owner or operator of a chemical source to submit or make available information to a Federal, State, or local government agency under, or otherwise to comply with, any other law; or

(C) the public disclosure of information derived from protected information, so long as the information disclosed—

(i) would not divulge methods or processes entitled to protection as trade secrets in accordance with the purposes of section 1905 of title 18, United States Code;

(ii) does not identify any particular chemical source; and

(iii) is not reasonably likely to increase the probability or consequences of a terrorist release,

even if the same information is also contained in a document referred to in paragraph (1).

(b) DISCLOSURE EXEMPTION.—Except with respect to certifications specified in paragraphs (1) and (5) of subsection (b) and subsection (h)(2)(A) of section ___03, protected information shall be exempt from disclosure under—

(1) section 552 of title 5, United States Code; and

(2) any State or local law providing for public access to information.

(c) DEVELOPMENT OF PROTOCOLS.—

(1) IN GENERAL.—The Secretary, in consultation with the Director of the Office of Management and Budget and appropriate Federal law enforcement and intelligence officials, and in a manner consistent with protections for sensitive or classified information, shall by regulation establish confidentiality protocols for maintenance and use of protected information.

(2) REQUIREMENTS FOR PROTOCOLS.—A protocol established under paragraph (1) shall ensure that—

(A) protected information shall be maintained in a secure location; and

(B) except as provided in subsection (e)(2), or as necessary for enforcement of this title or any law, in either case consistent with subsection (d), access to protected information shall be limited to persons designated by the Secretary, including State or local law enforcement officers or other officials (including first responders) to the extent disclosure is needed to carry out the purposes of this title or to further the investigation of a potential violation of any law.

(d) TREATMENT OF PROTECTED INFORMATION IN FEDERAL OR STATE ADMINISTRATIVE OR JUDICIAL PROCEEDINGS.—

(1) ADMINISTRATIVE PROCEEDINGS.—

(A) IN GENERAL.—In an administrative proceeding in which a person seeks to compel the disclosure of protected information or to offer protected information into evidence, the person to which the discovery request is directed, the person seeking to offer evidence, or the owner or operator of a chemical source shall provide written notice of the request to—

(i) the United States Attorney for the district in which the administrative entity conducting the proceeding is located;

(ii) the Secretary; and

(iii) the administrative entity conducting the proceeding.

(B) CONTENTS.—A notice under subparagraph (A) shall include a brief description of the protected information.

(C) RESPONSE BY THE SECRETARY.—

(i) IN GENERAL.—Not later than 60 days after the date on which the Secretary receives a notice under subparagraph (A), the Secretary shall issue to each entity described in that subparagraph a response to the notice.

(ii) DETERMINATION OF THREAT.—If the Secretary determines that disclosure of protected information covered by a notice under subparagraph (A) would pose a threat to public security or endanger the life or safety of any person, the Secretary shall have the authority to request from the administrative entity any prohibitions or restrictions on disclosure of the protected information necessary to avert such threat or danger.

(D) PROHIBITION.—

(i) IN GENERAL.—No party to an administrative proceeding may disclose protected information except consistently with any restrictions established by the administrative entity regarding that information.

(ii) NO RESPONSE.—If an administrative entity has not received a response from the Secretary by the date that is 60 days after the date of receipt by the Secretary of a notice under subparagraph (A), an administrative entity—

(I) shall determine whether the information covered by the notice qualifies as protected information that would pose a threat to public security or endanger the life or safety of a person if the information were publicly disclosed; and

(II) shall consider imposing any prohibitions or restrictions on disclosure of the protected information necessary to avert such threat or danger.

(2) JUDICIAL PROCEEDINGS.—

(A) IN GENERAL.—In a judicial proceeding in which a person seeks to compel the disclosure of protected information, or to offer protected information into evidence, the person to which the discovery request is directed, the person seeking to offer evidence, or the owner or operator of a chemical source shall provide written notice of the request to—

(i) the United States Attorney for the district in which the court conducting the proceeding is located;

(ii) the Secretary; and

(iii) the court of jurisdiction.

(B) CONTENTS.—A notice under subparagraph (A) shall include a brief description of the protected information.

(C) RESPONSE BY SECRETARY.—

(i) IN GENERAL.—Not later than 60 days after the date on which the Secretary receives a notice under subparagraph (A), the Secretary shall issue to each entity described in that subparagraph a response to the notice.

(ii) DETERMINATION OF THREAT.—If the Secretary determines that disclosure of protected information covered by a notice under subparagraph (A) would pose a threat to public security or endanger the life or safety of any person, the Secretary shall have the authority to request from the court of jurisdiction any prohibitions or restrictions on disclosure of the protected information necessary to avert such threat or danger.

(D) PROHIBITION.—

(i) IN GENERAL.—No party to a judicial proceeding may disclose protected information except consistently with any restrictions established by the judge regarding that information.

(ii) NO RESPONSE.—If a court of jurisdiction has not received a response from the Secretary by the date that is 60 days after the date of receipt by the Secretary of a notice under subparagraph (A), the court—

(I) shall determine whether the information qualifies as protected information that would pose a threat to public security or endanger the life or safety of a person if the information were publicly disclosed; and

(II) shall consider imposing any prohibitions or restrictions on disclosure of the protected information necessary to avert such a threat or danger.

(e) PENALTIES FOR UNAUTHORIZED DISCLOSURE.—

(1) IN GENERAL.—Except as provided in paragraph (2), any person referred to in subsection (c)(2)(B) that acquires any protected information, and that knowingly or recklessly discloses the protected information, shall—

(A) be imprisoned not more than 1 year, fined under title 18, United States Code (applicable to class A misdemeanors), or both; and

(B) if the person is a Federal officer or employee, be removed from Federal office or employment.

(2) EXCEPTIONS.—

(A) IN GENERAL.—Paragraph (1) shall not apply to a person described in that subparagraph that discloses protected information—

(i) to a person designated by the Secretary under subsection (c)(2)(B);

(ii) for the purpose of section 6; or

(iii) consistent with subsection (d), for use in any administrative or judicial proceeding to enforce, or to impose a penalty for failure to comply with, a requirement of this title.

(B) LAW ENFORCEMENT OFFICIALS AND FIRST RESPONDERS.—Notwithstanding paragraph (1), a person referred to in subsection (c)(2)(B) that is an officer or employee of the United States may disclose to a State or local law enforcement official or other official (including a first responder) the contents of a vulnerability assessment or site security plan, or other information described in that subsection, to the extent disclosure is necessary to carry out this title.

(f) CONGRESSIONAL ACCESS TO INFORMATION.—Nothing in this section authorizes the withholding of information from Congress.

SEC. ___09. PROVISION OF TRAINING AND OTHER ASSISTANCE.

(a) TRAINING.—The Secretary may provide training to State and local officials and owners and operators in furtherance of the purposes of this title.

(b) OTHER ASSISTANCE.—The Secretary shall provide assistance to facilities exempt from this Act under section ___02(B)(ii) to help the facilities develop voluntary measures to enhance the security of the facilities, including the prevention of theft.

SEC. ___10. JUDICIAL REVIEW.

(a) REGULATIONS.—Not later than 60 days after the date of promulgation of a regulation under this title, any person may file a petition for judicial review relating to the regulation with—

(1) the United States Court of Appeals for the District of Columbia; or

(2) with the United States circuit court—

(A) having jurisdiction over the State in which the person resides; or

(B) for the circuit in which the principal place of business of the person is located.

(b) FINAL AGENCY ACTIONS OR ORDERS.—Not later than 60 days after the date on which a chemical source receives notice of an action or order of the Secretary under this title with respect to the chemical source, the chemical source may file a petition for judicial review of the action or order with the United States district court for the district in which—

(1) the chemical source is located; or

(2) the owner or operator of the chemical source has a principal place of business.

(c) STANDARD OF REVIEW.—

(1) IN GENERAL.—On the filing of a petition under subsection (a) or (b), the court shall review the regulation or other final action or order that is the subject of the petition in accordance with chapter 7 of title 5, United States Code.

(2) BASIS.—

(A) IN GENERAL.—Judicial review of a regulation, or of a final agency action or order described in paragraph (1) that is based on an administrative hearing held on the record, shall be based on the record of the proceedings, comments, and other information that the Secretary considered in promulgating the regulation, taking the action, or issuing the order being reviewed.

(B) OTHER ACTIONS AND ORDERS.—Judicial review of a final agency action or order described in paragraph (1) that is not described in subparagraph (A) shall be based on any submissions to the Secretary relating to the action or order and any other information that the Secretary considered in taking the action or issuing the order.

SEC. ___11. NO EFFECT ON REQUIREMENTS UNDER OTHER LAW.

(a) IN GENERAL.—Except as provided in section ___08, nothing in this title affects any duty or other requirement imposed under any other Federal or State law.

(b) OTHER FEDERAL LAW.—

(1) IN GENERAL.—Notwithstanding subsection (a), an owner or operator of a chemical source that is required to prepare a site vulnerability assessment and implement a site security plan under any another Federal law may petition the Secretary to be subject to the other Federal law in lieu of this title.

(2) DETERMINATION OF SUBSTANTIAL EQUIVALENCE.—If the Secretary determines by rulemaking that a Federal law covered by a petition submitted by a chemical source under paragraph (1) is substantially equivalent to this title (including the requirements regarding alternative approaches under section ___03(a))—

(A) the Secretary may grant the petition; and

(B) the chemical source shall be subject to the other Federal law in lieu of this title.

SEC. ___12. AGRICULTURAL BUSINESS SECURITY GRANT PROGRAM.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term ''eligible entity'' means a retail or production agricultural business (including a business that is engaged in the production or processing of seafood) that employs not more than such number of individuals at a chemical source included in the list described in section ___03(f) as shall be determined by the Secretary, in consultation with the Administrator of the Small Business Administration and the Secretary of Agriculture.

(b) GRANTS.—The Secretary shall provide grants to an eligible entity that is a chemical source included in the list described in section ___03(f) selected under this section to enable the eligible entity at the chemical source—

(1) to improve security measures; and

(2) to protect against or reduce the consequence of a terrorist attack.

(c) CRITERIA.—In establishing criteria for the selection of, or in otherwise selecting, eligible entities to receive a grant under this section, the Secretary shall—

(1) consider on an individual, location-by-location basis, each applicant for a grant; and

(2) require each eligible entity that receives a grant to use funds from the grant only for the purposes described in subsection (b) in accordance with guidance of the Secretary.

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

SA 3850. Mr. GRASSLEY 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 213, after line 12 insert the following:

TITLE IV—OTHER MATTERS

SEC. 401. INCLUSION OF VISA REVOCATIONS IN THE NATIONAL CRIME AND INFORMATION CENTER DATABASE.

(a) PROVISION OF INFORMATION TO NCIC.—

(1) IN GENERAL.—The Secretary of State, in consultation with the Secretary of Homeland Security, shall submit to the National Crime Information Center of the Department of Justice information regarding the revocation of an alien's visa and any other appropriate information regarding such alien. Such information shall be submitted regardless of whether the alien has been removed from the United States.

(2) INITIAL SUBMISSION OF INFORMATION.—Not later than 60 days after the date of enactment of this Act, the Secretary of State, in consultation with the Secretary of Homeland Security, shall submit to the National Crime Information Center the information described in paragraph (1) for any alien whose visa was revoked prior to the date of enactment of this Act.

(b) AUTHORITY TO RECEIVE INFORMATION.—

(1) IN GENERAL.—Section 534(a) of title 28, United States Code, is amended by adding at the end the following new paragraph:

''(5) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States.''.

(2) CONFORMING AMENDMENTS.—Such section, as amended by paragraph (1), is further amended—

(A) in paragraph (3), by striking ''and'' at the end; and

(B) in paragraph (4), by striking the period at the end and inserting a semicolon and ''and''.

(c) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

SA 3851. Mr. GRASSLEY (for himself, Mr. CHAMBLISS, and Mr. KYL) 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 213, strike line 12 and insert the following:

carry out this Act and the amendments made by this Act.

TITLE IV—OTHER MATTERS

SEC. 401. VISA REVOCATION.

(a) LIMITATION ON REVIEW.—Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) is amended by adding at the end the following: ''There shall be no means of administrative or judicial review of a revocation under this subsection, and no court or other person otherwise shall have jurisdiction to consider any claim challenging the validity of such a revocation.''.

(b) CLASSES OF DEPORTABLE ALIENS.—Section 237(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(1)(B)) is amended by striking ''United States is'' and inserting the following: ''United States, or whose visa (or other documentation authorizing admission into the United States) has been revoked under section 221(i), is''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to revocations under section 221(i) of the Immigration and Nationality Act made before, on, or after such date.

SA 3852. Mr. GRASSLEY 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:

At the end, insert the following new title:

TITLE IV—INTERVIEWS OF VISA APPLICANTS

SEC. 401. REQUIREMENT OF PERSONAL INTERVIEWS OF VISA APPLICANTS.

Section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

''(h) Notwithstanding any other provision of this Act, each consular officer shall—

''(1) with respect to an alien who is at least 16 years of age and not more than 60 years of

age and who is applying for a nonimmigrant visa, require the alien to submit to a personal interview in accordance with such regulations as may be prescribed unless—

''(A) such alien is within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G) or is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof;

''(B) such alien is applying for a visa—

''(i) not more than 12 months after the date on which the alien's prior visa expired;

''(ii) for the classification under section 101(a)(15) for which such prior visa was issued; and

''(iii) from the consular post located near the alien's usual residence; or

''(C) the consular officer determines that it is in the national interest of the United States to waive the personal interview of such alien and properly documents the justification for such waiver;

''(2) with respect to an alien who is at least 14 years of age and not more than 80 years of age and who is applying for a nonimmigrant visa, require the alien to appear in person for the purpose of providing biometric data, including electronic fingerscans, in accordance with such regulations as may be prescribed unless such alien is within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G); and

''(3) with respect to an alien who is applying for an immigrant or a nonimmigrant visa who is a national of a country officially designated by the Secretary of State as a state sponsor of terrorism, require the alien to submit to a personal interview in accordance with such regulations as may be prescribed.''.

SA 3853. Mr. GRASSLEY (for himself and Mr. LEAHY) 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:

At the end of the bill, add the following new title:

TITLE IV—FEDERAL BUREAU OF INVESTIGATION REFORM

SEC. 401. SHORT TITLE.

This title may be cited as the ''Federal Bureau of Investigation Reform Act of 2004''.

Subtitle A—Whistleblower Protection

SEC. 411. INCREASING PROTECTIONS FOR FBI WHISTLEBLOWERS.

Section 2303 of title 5, United States Code, is amended to read as follows:

''§ 2303. Prohibited personnel practices in the Federal Bureau of Investigation

''(a) DEFINITION.—In this section, the term 'personnel action' means any action described in clauses (i) through (x) of section 2302(a)(2)(A).

''(b) PROHIBITED PRACTICES.—Any employee of the Federal Bureau of Investigation who has the authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to any employee of the Bureau or because of—

''(1) any disclosure of information by the employee to the Attorney General (or an employee designated by the Attorney General for such purpose), a supervisor of the employee, the Inspector General for the Department of Justice, or a Member of Congress that the employee reasonably believes evidences—

''(A) a violation of any law, rule, or regulation; or

''(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; or

''(2) any disclosure of information by the employee to the Special Counsel of information that the employee reasonably believes evidences—

''(A) a violation of any law, rule, or regulation; or

''(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

''(c) INDIVIDUAL RIGHT OF ACTION.—Chapter 12 of this title shall apply to an employee of the Federal Bureau of Investigation who claims that a personnel action has been taken under this section against the employee as a reprisal for any disclosure of information described in subsection (b)(2).

''(d) REGULATIONS.—The Attorney General shall prescribe regulations to ensure that a personnel action under this section shall not be taken against an employee of the Federal Bureau of Investigation as a reprisal for any disclosure of information described in subsection (b)(1), and shall provide for the enforcement of such regulations in a manner consistent with applicable provisions of sections 1214 and 1221, and in accordance with the procedures set forth in sections 554 through 557 and 701 through 706.''.

Subtitle B—FBI Security Career Program

SEC. 421. SECURITY MANAGEMENT POLICIES.

The Attorney General shall establish policies and procedures for the effective management (including accession, education, training, and career development) of persons serving in security positions in the Federal Bureau of Investigation.

SEC. 422. DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) IN GENERAL.—Subject to the authority, direction, and control of the Attorney General, the Director of the Federal Bureau of Investigation (referred to in this title as the ''Director'') shall carry out all powers, functions, and duties of the Attorney General with respect to the security workforce in the Federal Bureau of Investigation.

(b) POLICY IMPLEMENTATION.—The Director shall ensure that the policies of the Attorney General established in accordance with this title are implemented throughout the Federal Bureau of Investigation at both the headquarters and field office levels.

SEC. 423. DIRECTOR OF SECURITY.

The Director shall appoint a Director of Security, or such other title as the Director may determine, to assist the Director in the performance of the duties of the Director under this title.

SEC. 424. SECURITY CAREER PROGRAM BOARDS.

(a) ESTABLISHMENT.—The Director acting through the Director of Security shall establish a security career program board to advise the Director in managing the hiring, training, education, and career development of personnel in the security workforce of the Federal Bureau of Investigation.

(b) COMPOSITION OF BOARD.—The security career program board shall include—

(1) the Director of Security (or a representative of the Director of Security);

(2) the senior officials, as designated by the Director, with responsibility for personnel management;

(3) the senior officials, as designated by the Director, with responsibility for information management;

(4) the senior officials, as designated by the Director, with responsibility for training and career development in the various security disciplines; and

(5) such other senior officials for the intelligence community as the Director may designate.

(c) CHAIRPERSON.—The Director of Security (or a representative of the Director of Security) shall be the chairperson of the board.

(d) SUBORDINATE BOARDS.—The Director of Security may establish a subordinate board structure to which functions of the security career program board may be delegated.

SEC. 425. DESIGNATION OF SECURITY POSITIONS.

(a) DESIGNATION.—The Director shall designate, by regulation, those positions in the Federal Bureau of Investigation that are security positions for purposes of this title.

(b) REQUIRED POSITIONS.—In designating security positions under subsection (a), the Director shall include, at a minimum, all security-related positions in the areas of—

(1) personnel security and access control;

(2) information systems security and information assurance;

(3) physical security and technical surveillance countermeasures;

(4) operational, program, and industrial security; and

(5) information security and classification management.

SEC. 426. CAREER DEVELOPMENT.

(a) CAREER PATHS.—The Director shall ensure that appropriate career paths for personnel who wish to pursue careers in security are identified in terms of the education, training, experience, and assignments necessary for career progression to the most senior security positions and shall make available published information on those career paths.

(b) LIMITATION ON PREFERENCE FOR SPECIAL AGENTS.—

(1) IN GENERAL.—Except as provided in the policy established under paragraph (2), the Attorney General shall ensure that no requirement or preference for a Special Agent of the Federal Bureau of Investigation (referred to in this title as a ''Special Agent'') is used in the consideration of persons for security positions.

(2) POLICY.—The Attorney General shall establish a policy that permits a particular security position to be specified as available only to Special Agents, if a determination is made, under criteria specified in the policy, that a Special Agent—

(A) is required for that position by law;

(B) is essential for performance of the duties of the position; or

(C) is necessary for another compelling reason.

(3) REPORT.—Not later than December 15 of each year, the Director shall submit to the Attorney General a report that lists—

(A) each security position that is restricted to Special Agents under the policy established under paragraph (2); and

(B) the recommendation of the Director as to whether each restricted security position should remain restricted.

(c) OPPORTUNITIES TO QUALIFY.—The Attorney General shall ensure that all personnel, including Special Agents, are provided the opportunity to acquire the education, training, and experience necessary to qualify for senior security positions.

(d) BEST QUALIFIED.—The Attorney General shall ensure that the policies established under this title are designed to provide for the selection of the best qualified individual for a position, consistent with other applicable law.

(e) ASSIGNMENTS POLICY.—The Attorney General shall establish a policy for assigning Special Agents to security positions that provides for a balance between—

(1) the need for personnel to serve in career enhancing positions; and

(2) the need for requiring service in each such position for sufficient time to provide the stability necessary to carry out effectively the duties of the position and to allow for the establishment of responsibility and accountability for actions taken in the position.

(f) LENGTH OF ASSIGNMENT.—In implementing the policy established under subsection (b)(2), the Director shall provide, as appropriate, for longer lengths of assignments to security positions than assignments to other positions.

(g) PERFORMANCE APPRAISALS.—The Director shall provide an opportunity for review and inclusion of any comments on any appraisal of the performance of a person serving in a security position by a person serving in a security position in the same security career field.

(h) BALANCED WORKFORCE POLICY.—In the development of security workforce policies under this title with respect to any employees or applicants for employment, the Attorney General shall, consistent with the merit system principles set out in paragraphs (1) and (2) of section 2301(b) of title 5, United States Code, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

SEC. 427. GENERAL EDUCATION, TRAINING, AND EXPERIENCE REQUIREMENTS.

(a) IN GENERAL.—The Director shall establish education, training, and experience requirements for each security position, based on the level of complexity of duties carried out in the position.

(b) QUALIFICATION REQUIREMENTS.—Before being assigned to a position as a program manager or deputy program manager of a significant security program, a person—

(1) must have completed a security program management course that is accredited by the Intelligence Community-Department of Defense Joint Security Training Consortium or is determined to be comparable by the Director; and

(2) must have not less than 6 years experience in security, of which not less than 2 years were performed in a similar program office or organization.

SEC. 428. EDUCATION AND TRAINING PROGRAMS.

(a) IN GENERAL.—The Director, in consultation with the Director of Central Intelligence and the Secretary of Defense, shall establish and implement education and training programs for persons serving in security positions in the Federal Bureau of Investigation.

(b) OTHER PROGRAMS.—The Director shall ensure that programs established under subsection (a) are established and implemented, to the maximum extent practicable, uniformly with the programs of the Intelligence Community and the Department of Defense.

SEC. 429. OFFICE OF PERSONNEL MANAGEMENT APPROVAL.

(a) IN GENERAL.—The Attorney General shall submit any requirement that is established under section 207 to the Director of the Office of Personnel Management for approval.

(b) FINAL APPROVAL.—If the Director does not disapprove the requirements established under section 207 within 30 days after the date on which the Director receives the requirement, the requirement is deemed to be approved by the Director of the Office of Personnel Management.

Subtitle C—FBI Counterintelligence Polygraph Program

SEC. 431. DEFINITIONS.

In this title:

(1) POLYGRAPH PROGRAM.—The term ''polygraph program'' means the counterintelligence screening polygraph program established under section 302.

(2) POLYGRAPH REVIEW.—The term ''Polygraph Review'' means the review of the scientific validity of the polygraph for counterintelligence screening purposes conducted by the Committee to Review the Scientific Evidence on the Polygraph of the National Academy of Sciences.

SEC. 432. ESTABLISHMENT OF PROGRAM.

Not later than 6 months after the date of enactment of this Act, the Attorney General, in consultation with the Director of the Federal Bureau of Investigation and the Director of Security of the Federal Bureau of Investigation, shall establish a counterintelligence screening polygraph program for the Federal Bureau of Investigation that consists of periodic polygraph examinations of employees, or contractor employees of the Federal Bureau of Investigation who are in positions specified by the Director of the Federal Bureau of Investigation as exceptionally sensitive in order to minimize the potential for unauthorized release or disclosure of exceptionally sensitive information.

SEC. 433. REGULATIONS.

(a) IN GENERAL.—The Attorney General shall prescribe regulations for the polygraph program in accordance with subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedures Act).

(b) CONSIDERATIONS.—In prescribing regulations under subsection (a), the Attorney General shall—

(1) take into account the results of the Polygraph Review; and

(2) include procedures for—

(A) identifying and addressing false positive results of polygraph examinations;

(B) ensuring that adverse personnel actions are not taken against an individual solely by reason of the physiological reaction of the individual to a question in a polygraph examination, unless—

(i) reasonable efforts are first made independently to determine through alternative means, the veracity of the response of the individual to the question; and

(ii) the Director of the Federal Bureau of Investigation determines personally that the personnel action is justified;

(C) ensuring quality assurance and quality control in accordance with any guidance provided by the Department of Defense Polygraph Institute and the Director of Central Intelligence; and

(D) allowing any employee or contractor who is the subject of a counterintelligence screening polygraph examination under the polygraph program, upon written request, to have prompt access to any unclassified reports regarding an examination that relates to any adverse personnel action taken with respect to the individual.

SEC. 434. REPORT ON FURTHER ENHANCEMENT OF FBI PERSONNEL SECURITY PROGRAM.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to Congress a report setting forth recommendations for any legislative action that the Director considers appropriate in order to enhance the personnel security program of the Federal Bureau of Investigation.

(b) POLYGRAPH REVIEW RESULTS.—Any recommendation under subsection (a) regarding the use of polygraphs shall take into account the results of the Polygraph Review.

Subtitle D—Reports

SEC. 441. REPORT ON LEGAL AUTHORITY FOR FBI PROGRAMS AND ACTIVITIES.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Attorney General shall submit to Congress a report describing the statutory and other legal authority for all programs and activities of the Federal Bureau of Investigation.

(b) CONTENTS.—The report submitted under subsection (a) shall describe—

(1) the titles within the United States Code and the statutes for which the Federal Bureau of Investigation exercises investigative responsibility;

(2) each program or activity of the Federal Bureau of Investigation that has express statutory authority and the statute which provides that authority; and

(3) each program or activity of the Federal Bureau of Investigation that does not have express statutory authority, and the source of the legal authority for that program or activity.

(c) RECOMMENDATIONS.—The report submitted under subsection (a) shall recommend whether—

(1) the Federal Bureau of Investigation should continue to have investigative responsibility for each statute for which the Federal Bureau of Investigation currently has investigative responsibility;

(2) the legal authority for any program or activity of the Federal Bureau of Investigation should be modified or repealed;

(3) the Federal Bureau of Investigation should have express statutory authority for any program or activity of the Federal Bureau of Investigation for which the Federal Bureau of Investigation does not currently have express statutory authority; and

(4) the Federal Bureau of Investigation should—

(A) have authority for any new program or activity; and

(B) express statutory authority with respect to any new programs or activities.

Subtitle E—Ending the Double Standard

SEC. 451. ALLOWING DISCIPLINARY SUSPENSIONS OF MEMBERS OF THE SENIOR EXECUTIVE SERVICE FOR 14 DAYS OR LESS.

Section 7542 of title 5, United States Code, is amended by striking ''for more than 14 days''.

SEC. 452. SUBMITTING OFFICE OF PROFESSIONAL RESPONSIBILITY REPORTS TO CONGRESSIONAL COMMITTEES.

(a) IN GENERAL.—For each of the 5 years following the date of enactment of this Act, the Office of the Inspector General shall submit to the chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives an annual report to be completed by the Federal Bureau of Investigation, Office of Professional Responsibility and provided to the Inspector General, which sets forth—

(1) basic information on each investigation completed by that Office;

(2) the findings and recommendations of that Office for disciplinary action; and

(3) what, if any, action was taken by the Director of the Federal Bureau of Investigation or the designee of the Director based on any such recommendation.

(b) CONTENTS.—In addition to all matters already included in the annual report described in subsection (a), the report shall also include an analysis of—

(1) whether senior Federal Bureau of Investigation employees and lower level Federal Bureau of Investigation personnel are being disciplined and investigated similarly; and

(2) whether any double standard is being employed to more senior employees with respect to allegations of misconduct.

Subtitle F—Enhancing Security at the Department of Justice

SEC. 461. REPORT ON THE PROTECTION OF SECURITY AND INFORMATION AT THE DEPARTMENT OF JUSTICE.

Not later than 9 months after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the manner in which the Security and Emergency Planning Staff, the Office of Intelligence Policy and Review, and the Chief Information Officer of the Department of Justice plan to improve the protection of security and information at the Department of Justice, including a plan to establish secure electronic communications between the Federal Bureau of Investigation and the Office of Intelligence Policy and Review for processing information related to the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

SEC. 462. AUTHORIZATION FOR INCREASED RESOURCES TO PROTECT SECURITY AND INFORMATION.

There are authorized to be appropriated to the Department of Justice for the activities of the Security and Emergency Planning Staff to meet the increased demands to provide personnel, physical, information, technical, and litigation security for the Department of Justice, to prepare for terrorist threats and other emergencies, and to review security compliance by components of the Department of Justice—

(1) $13,000,000 for fiscal years 2005 and 2006;

(2) $17,000,000 for fiscal year 2007; and

(3) $22,000,000 for fiscal year 2008.

SEC. 463. AUTHORIZATION FOR INCREASED RESOURCES TO FULFILL NATIONAL SECURITY MISSION OF THE DEPARTMENT OF JUSTICE.

There are authorized to be appropriated to the Department of Justice for the activities of the Office of Intelligence Policy and Review to help meet the increased personnel demands to combat terrorism, process applications to the Foreign Intelligence Surveillance Court, participate effectively in counterespionage investigations, provide policy analysis and oversight on national security matters, and enhance secure computer and telecommunications facilities—

(1) $7,000,000 for fiscal years 2005 and 2006;

(2) $7,500,000 for fiscal year 2007; and

(3) $8,000,000 for fiscal year 2008.

SA 3854. Mr. TALENT 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:

At the appropriate place, insert the following:

SEC. ___. STATE REPROGRAMMING OF GRANT FUNDS.

Subtitle A of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 361 et seq.) is amended by adding at the end the following:

"SEC. 802. STATE REPROGRAMMING OF GRANT FUNDS.

''(a) AUTHORIZATION.—The Director of the Office for State and Local Government Coordination and Preparedness may approve requests from the senior official responsible for emergency preparedness and response in each State to reprogram funds appropriated for the State Homeland Security Grant Program of the Office for State and Local Government Coordination and Preparedness to address specific security requirements that are based on credible threat assessments, particularly threats that arise after the State has submitted an application describing its intended use of such grant funds.

''(b) LIMITATION.—For each State, the amount of funds reprogrammed under this section shall not exceed 10 percent of the total annual allocation for such State under the State Homeland Security Grant Program; and

''(c) CONSULTATION.—Before reprogramming funds under this section, a State official described in subsection (a) shall consult with relevant local officials.''.

SA 3855. Mr. GRASSLEY 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:

At the appropriate place, insert the following:

SEC. ___. COMBATTING TERRORIST FINANCING.

(a) SPECIFIED ACTIVITIES FOR MONEY LAUNDERING.—

(1) RICO DEFINITIONS.—Section 1961(1) of title 18, United States Code, is amended—

(A) in subparagraph (A), by inserting ''burglary, embezzlement,'' after ''robbery,'';

(B) in subparagraph (B), by—

(i) inserting ''section 1960 (relating to illegal money transmitters),'' before ''sections 2251'';

(ii) striking ''1588'' and inserting ''1592'';

(iii) inserting ''and 1470'' after ''1461–1465''; and

(iv) inserting ''2252A,'' after ''2252,'';

(C) in subparagraph (D), by striking ''fraud in the sale of securities'' and inserting ''fraud in the purchase or sale of securities''; and

(D) in subparagraph (F), by inserting ''and 274A'' after ''274''.

(2) MONETARY INVESTMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(A) by inserting '', or section 2339C (relating to financing of terrorism)'' before ''of this title''; and

(B) by striking ''or any felony violation of the Foreign Corrupt Practices Act'' and inserting ''any felony violation of the Foreign Corrupt Practices Act, or any violation of section 208 of the Social Security Act (42 U.S.C. 408) (relating to obtaining funds through misuse of a social security number)''.

(3) CONFORMING AMENDMENTS.—

(A) MONETARY INSTRUMENTS.—Section 1956(e) of title 18, United States Code, is amended to read as follows:

''(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland Security may direct, with respect to the offenses over which the Social Security Administration has jurisdiction, as the Commissioner of Social Security may direct, and with respect to offenses over which the United States Postal Service has jurisdiction, as the Postmaster General may direct. The authority under this subsection of the Secretary of the Treasury, the Secretary of Homeland Security, the Commissioner of Social Security, and the Postmaster General shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Commissioner of Social Security, the Postmaster General, and the Attorney General. Violations of this section involving offenses described in subsection (c)(7)(E) may be investigated by such components of the Department of Justice as the Attorney General may direct, and the National Enforcement Investigations Center of the Environmental Protection Agency.''.

(B) PROPERTY FROM UNLAWFUL ACTIVITY.—Section 1957(e) of title 18, United States Code, is amended to read as follows:

''(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland Security may direct, and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postmaster General. The authority under this subsection of the Secretary of the Treasury, the Secretary of Homeland Security, and the Postmaster General shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Postmaster General, and the Attorney General.''.

(b) ILLEGAL MONEY TRANSMITTING BUSINESSES.—

(1) TECHNICAL AMENDMENTS.—Section 1960 of title 18, United States Code, is amended—

(A) in the caption by striking ''unlicensed'' and inserting ''illegal'';

(B) in subsection (a), by striking ''unlicensed'' and inserting ''illegal'';

(C) in subsection (b)(1), by striking ''unlicensed'' and inserting ''illegal''; and

(D) in subsection (b)(1)(C), by striking ''to be used to be used'' and inserting ''to be used''.

(2) PROHIBITION ON UNLICENSED MONEY TRANSMITTING BUSINESSES.—Section 1960(b)(1)(B) of title 18, United States Code, is amended by inserting the following before the semicolon: '', whether or not the defendant knew that the operation was required to comply with such registration requirements''.

(3) AUTHORITY TO INVESTIGATE.—Section 1960 of title 18, United States Code, is amended by adding at the end the following:

''(c) Investigations of violations of this section shall be coordinated by the Secretary of the Treasury, and may be conducted by the Attorney General, the Secretary of the Treasury, and the Secretary of the Department of Homeland Security.''.

(c) ASSETS OF PERSONS COMMITTING TERRORIST ACTS AGAINST FOREIGN COUNTRIES OR INTERNATIONAL ORGANIZATIONS.—Section 981(a)(1)(G) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting ''; or''; and

(3) by inserting after clause (iii) the following:

''(iv) of any individual, entity, or organization engaged in planning or perpetrating any act of international terrorism (as defined in section 2331) against any international organization (as defined in section 209 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4309(b))) or against any foreign government. Where the property sought for forfeiture is located beyond the territorial boundaries of the United States, an act in furtherance of such planning or perpetration must have occurred within the jurisdiction of the United States.''.

(d) MONEY LAUNDERING THROUGH INFORMAL VALUE TRANSFER SYSTEMS.—Section 1956(a)

of title 18, United States Code, is amended by adding at the end the following:

''(4) A transaction described in paragraph (1) or a transportation, transmission, or transfer described in paragraph (2) shall be deemed to involve the proceeds of specified unlawful activity, if the transaction, transportation, transmission, or transfer is part of a single plan or arrangement whose purpose is described in either of those paragraphs and one part of such plan or arrangement actually involves the proceeds of specified unlawful activity.''.

(e) TECHNICAL CORRECTIONS TO FINANCING OF TERRORISM STATUTE.—

(1) CONCEALMENT.—Section 2339C(c)(2) of title 18, United States Code, is amended—

(A) by striking ''resources, or funds'' and inserting ''resources, or any funds or proceeds of such funds'';

(B) in subparagraph (A), by striking ''were provided'' and inserting ''are to be provided, or knowing that the support or resources were provided,''; and

(C) in subparagraph (B)—

(i) by striking ''or any proceeds of such funds''; and

(ii) by striking ''were provided or collected'' and inserting ''are to be provided or collected, or knowing that the funds were provided or collected,''.

(2) DEFINITIONS.—Section 2339C(e) of title 18, United States Code, is amended—

(A) by striking ''and'' at the end of paragraph (12);

(B) redesignating paragraph (13) as paragraph (14); and

(C) inserting after paragraph (12) the following new paragraph:

''(13) the term 'material support or resources' has the same meaning as in section 2339A(b) of this title; and''.

(3) INTERNATIONAL TERRORISM.—Section 2332b(g)(5)(B) of title 18, United States Code, is amended by inserting '')'' after ''2339C (relating to financing of terrorism''.

(f) MISCELLANEOUS AND TECHNICAL AMENDMENTS.—

(1) CRIMINAL FORFEITURE.—Section 982(b) of title 18, United States Code, is amended in subsection (b)(2), by striking ''The substitution'' and inserting ''With respect to a forfeiture under subsection (a)(1), the substitution''.

(2) TECHNICAL AMENDMENTS TO SECTIONS 1956 AND 1957.—

(A) UNLAWFUL ACTIVITY.—Section 1956(c)(7)(F) of title 18, United States Code, is amended by inserting '', as defined in section 24'' before the period.

(B) PROPERTY FROM UNLAWFUL ACTIVITY.—Section 1957 of title 18, United States Code, is amended—

(i) in subsection (a), by striking ''engages or attempts to engage in'' and inserting ''conducts or attempts to conduct''; and

(ii) in subsection (f), by inserting the following after paragraph (3):

''(4) the term 'conducts' has the same meaning as it does for purposes of section 1956 of this title.''.

(3) OBSTRUCTION OF JUSTICE.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by striking ''or'' the first time it appears and inserting '', a subpoena issued pursuant to section 1782 of title 28, or''.

(g) EXTENSION OF MONEY LAUNDERING AND FINANCIAL CRIMES STRATEGY ACT OF 1998.—

(1) TRANSMITTAL TO CONGRESS.—Section 5341(a)(2) of title 31, United States Code, is amended by striking ''and 2003'' and inserting ''2003, 2005, 2006, and 2007''.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 5355 of title 31, United States Code, is amended by adding at the end the following:

''2005 ..... $15,000,000
''2006 ..... $15,000,000
''2007 ..... $15,000,000.''.

SEC. ___. INCREASED PENALTIES FOR SMUGGLING GOODS.

(a) INCREASED PENALTY.—The third undesignated paragraph of section 545, United States Code, is amended by striking ''five years'' and inserting ''20 years''.

(b) ENHANCED PENALTY FOR CAUSING DEATH.—

(1) AMENDMENT OF FEDERAL SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide sentencing enhancements for an offense under section 545 of title 18, United States Code, as amended by this Act, that results in the death of a person.

(2) CONSISTENCY WITH OTHER GUIDELINES.—In carrying out this section, the United States Sentencing Commission shall—

(A) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(B) avoid duplicative punishments for substantially the same offense.

SA 3856. Mr. GRASSLEY 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:

At the appropriate place, insert the following:

SEC. ___. UNITED STATES INTERDICTION COORDINATOR.

(a) IN GENERAL.—Section 704 of the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1703), as enforced in law notwithstanding repeal, is amended by adding at the end the following:

''(i) UNITED STATES INTERDICTION COORDINATOR.—

''(1) IN GENERAL.—There shall be a United States Interdiction Coordinator, who shall be designated by the Director and who shall be responsible for the coordination of interdiction operations among National Drug Control Program Agencies to prevent and reduce the illegal importation of drugs into the United States.

''(2) RESPONSIBILITIES.—The United States Interdiction Coordinator shall be responsible to the Director for—

''(A) coordinating the interdiction of the National Drug Control Program Agencies activities to ensure consistency with the National Drug Control Strategy;

''(B) developing a National Drug Control Interdiction plan to ensure consistency with the National Drug Control Strategy;

''(C) assessing the sufficiency of assets of the National Drug Control Program Agencies committed to illicit drug interdiction; and

''(D) advising the Director on the efforts of each National Drug Control Program Agency to implement the National Drug Control Interdiction plan.''.

(b) AMENDMENT TO HOMELAND SECURITY ACT OF 2002.—Section 878 of the Homeland Security Act of 2002 (6 U.S.C. 458) is amended by striking ''shall—'' through paragraph (2) and inserting ''shall ensure the adequacy of resources within the Department for illicit drug interdiction.''.

SA 3857. Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) 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, strike lines 9 through 15, and insert the following:

(II) by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

''(9) managing the Homeland Security Information Clearinghouse established under section 801(d); and

''(10) managing the Noble Training Center in Fort McClellan, Alabama, through the Center for Domestic Preparedness.'';

SA 3858. Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) 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, strike line 20 and all that follows through page 11, line 7, and insert the following:

''(d) DESIGNATION.—The Center for Domestic Preparedness shall be designated as the National First Responder Training Center within the Office for Domestic Preparedness.''.

SA 3859. Mr. DOMENICI 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 94, between lines 14 and 15, insert the following:

(3) There may be established under this subsection a separate national intelligence center having an area of intelligence responsibility for each of the following:

(A) The nuclear terrorism threats confronting the United States.

(B) The chemical terrorism threats confronting the United States.

(C) The biological terrorism threats confronting the United States.

On page 94, line 15, strike ''(3)'' and insert ''(4)''.

SA 3860. Mr. DOMENICI 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:

At the appropriate place, insert the following:

SEC. ___. INTELLIGENCE COMMUNITY USE OF NISAC CAPABILITIES.

The National Intelligence Director shall establish a formal relationship, including information sharing, between the intelligence community and the National Infrastructure Simulation and Analysis Center. Through this relationship, the intelligence community shall take full advantage of the capabilities of the National Infrastructure Simulation and Analysis Center, particularly vulnerability and consequence analysis, for real time response to reported threats and long term planning for projected threats.

SA 3861. Mr. DOMENICI 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:

At the appropriate place, insert the following:

SEC. ___. BORDER SURVEILLANCE.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the President and the appropriate committees of Congress a comprehensive plan for the systematic surveillance of the Southwest border of the United States by remotely piloted aircraft.

(b) CONTENTS.—The plan submitted under subsection (a) shall include—

(1) recommendations for establishing command and control centers, operations sites, infrastructure, maintenance, and procurement;

(2) cost estimates for the implementation of the plan and ongoing operations;

(3) recommendations for the appropriate agent within the Department of Homeland Security to be the executive agency for remotely piloted aircraft operations;

(4) the number of remotely piloted aircraft required for the plan;

(5) the types of missions the plan would undertake, including—

(A) protecting the lives of people seeking illegal entry into the United States;

(B) interdicting illegal movement of people, weapons, and other contraband across the border;

(C) providing investigative support to assist in the dismantling of smuggling and criminal networks along the border;

(D) using remotely piloted aircraft to serve as platforms for the collection of intelligence against smugglers and criminal networks along the border; and

(E) further validating and testing of remotely piloted aircraft for airspace security missions; and

(6) the equipment necessary to carry out the plan.

(c) IMPLEMENTATION.—The Secretary of Homeland Security shall implement the plan submitted under subsection (a) as soon as sufficient funds are appropriated and available for this purpose.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SA 3862. 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:

At the end, add the following new title:

TITLE IV—OTHER MATTERS.

SEC. 401. INFORMATION-BASED IDENTITY AUTHENTICATION OF DRIVER'S LICENSES.

(a) NEW REQUIREMENTS.—

(1) REDESIGNATION.—Chapter 303 of title 49, United States Code, is amended—

(A) by striking section 30308; and

(B) by redesignating sections 30306 and 30307 as sections 30307 and 30308, respectively.

(2) IDENTIFICATION REQUIREMENTS.—Chapter 303 of such title is further amended by inserting after section 30305 the following new section:

''§ 30306. Requirement for information-based identity authentication

''(a) IDENTIFICATION AUTHENTICATION STANDARDS.—The Secretary of Transportation, in consultation with the Secretary of Homeland Security and the Administrator of the Federal Motor Carrier Safety Administration, shall prescribe regulations that set forth minimum standards for the use by a State of a system of information-based identity authentication in determining the identity of an applicant for a motor vehicle operator's license prior to the issuance, renewal, transfer, or upgrading of a motor vehicle operator's license.

''(b) CONTENT OF REGULATIONS.—The regulations required under subsection (a) shall require a State to use a system of information-based identity authentication that—

''(1) utilizes multiple sources of information related to the identity of the applicant for a motor vehicle operator's license, including government records and publicly available information;

''(2) enables the measurement of the accuracy of the determination of the identity of the applicant;

''(3) provides for the continuous auditing of the compliance of such system with applicable laws, policies, and practices governing the collection, use, and distribution of information in the operation of the system; and

''(4) incorporates industry best practices in the protection of privacy interests related to such information and the safeguarding of the storage of such information.

''(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to authorize the Secretary of Transportation or the head of any other Federal agency to create a new database for States to use in connection with information-based identity authentication.''.

(3) INFORMATION-BASED IDENTITY AUTHENTICATION DEFINED.—Section 30301 of such title is amended by adding at the end the following new paragraph:

''(9) 'information-based identity authentication' means the validation and verification of the information provided by an individual for the purpose of determining the identity of such individual through the use of other information pertaining to the individual that is obtained from reliable sources of information available in the public and private sectors.''.

(4) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 303 of title 49, United States Code, is amended by striking the items relating to sections 30306, 30307, and 30308 and inserting the following items:

''30306. Requirement for information-based identity authentication.
''30307. National Driver Registry Advisory Committee.
''30308. Criminal penalties.''.

(b) FINAL REGULATIONS.—The Secretary of Transportation shall issue final regulations under section 30306(a) of title 49, United States Code (as added by subsection (a)(2)), not later than 180 days after the date of the enactment of this Act.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to authorize the Secretary of Transportation or the head of any other Federal agency to create a new database for States to use in connection with information-based identity authentication (as that term is defined in section 30301(9) of title 49, United States Code (as added by subsection (a)(2)).

SA 3863. Mr. MCCAIN (for himself, Mr. BREAUX, Mr. LAUTENBERG, Mr. BIDEN, Mr. SCHUMER, Ms. SNOWE, Mr. HOLLINGS, Mr. CARPER, Mrs. BOXER, Mrs. CLINTON, Mr. ROCKEFELLER, and Mr. DORGAN) 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:

At the appropriate place, insert the following:

TITLE —RAIL SECURITY

SEC. —01. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Rail Security Act of 2004''.

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

Sec. —01. Short title; table of contents.
Sec. —02. Rail transportation security risk assessment.
Sec. —03. Rail security.
Sec. —04. Study of foreign rail transport security programs.
Sec. —05. Passenger, baggage, and cargo screening.
Sec. —06. Certain personnel limitations not to apply.
Sec. —07. Fire and life-safety improvements.
Sec. —08. Memorandum of agreement.
Sec. —09. Amtrak plan to assist families of passengers involved in rail passenger accidents.
Sec. —10. Systemwide Amtrak security upgrades.
Sec. —11. Freight and passenger rail security upgrades.
Sec. —12. Oversight and grant procedures.
Sec. —13. Rail security research and development.
Sec. —14. Welded rail and tank car safety improvements.
Sec. —15. Northern Border rail passenger report.
Sec. —16. Report regarding impact on security of train travel in communities without grade separation.
Sec. —17. Whistleblower protection program.
Sec. —18. Effective date.

SEC. —02. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) IN GENERAL.—

(1) VULNERABILITY ASSESSMENT.—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Secretary of Transportation, shall complete a vulnerability assessment of freight and passenger rail transportation (encompassing railroads, as that term is defined in section 20102(1) of title 49, United States Code). The assessment shall include—

(A) identification and evaluation of critical assets and infrastructures;

(B) identification of threats to those assets and infrastructures;

(C) identification of vulnerabilities that are specific to the transportation of hazardous materials via railroad; and

(D) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems, procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment.

(2) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The assessment shall take into account actions taken or planned by both public and private entities to address identified security issues and assess the effective integration of such actions.

(3) RECOMMENDATIONS.—Based on the assessment conducted under paragraph (1), the Under Secretary, in consultation with the

Secretary of Transportation, shall develop prioritized recommendations for improving rail security, including any recommendations the Under Secretary has for—

(A) improving the security of rail tunnels, rail bridges, rail switching and car storage areas, other rail infrastructure and facilities, information systems, and other areas identified by the Under Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;

(B) deploying equipment to detect explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;

(C) training employees in terrorism prevention, passenger evacuation, and response activities;

(D) conducting public outreach campaigns on passenger railroads;

(E) deploying surveillance equipment; and

(F) identifying the immediate and long-term costs of measures that may be required to address those risks.

(4) PLANS.—The report required by subsection (c) shall include—

(A) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the government to provide increased security support at high or severe threat levels of alert; and

(B) a plan for coordinating rail security initiatives undertaken by the public and private sectors.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment required by subsection (a), the Under Secretary of Homeland Security for Border and Transportation Security shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, first responders, shippers of hazardous materials, public safety officials (including those within other agencies and offices within the Department of Homeland Security), and other relevant parties.

(c) REPORT.—

(1) CONTENTS.—Within 180 days after the date of enactment of this Act, the Under Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report containing the assessment and prioritized recommendations required by subsection (a) and an estimate of the cost to implement such recommendations.

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

(d) 2-YEAR UPDATES.—The Under Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations every 2 years and transmit a report, which may be submitted in both classified and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $5,000,000 for fiscal year 2005 for the purpose of carrying out this section.

SEC. —03. RAIL SECURITY.

(a) RAIL POLICE OFFICERS.—Section 28101 of title 49, United States Code, is amended by striking ''the rail carrier'' each place it appears and inserting ''any rail carrier''.

(b) REVIEW OF RAIL REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Under Secretary of Homeland Security for Border and Transportation Security, shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail security.

SEC. —04. STUDY OF FOREIGN RAIL TRANSPORT SECURITY PROGRAMS.

(a) REQUIREMENT FOR STUDY.—Within one year after the date of enactment of the Rail Security Act of 2004, the Comptroller General shall complete a study of the rail passenger transportation security programs that are carried out for rail transportation systems in Japan, member nations of the European Union, and other foreign countries.

(b) PURPOSE.—The purpose of the study shall be to identify effective rail transportation security measures that are in use in foreign rail transportation systems, including innovative measures and screening procedures determined effective.

(c) REPORT.—The Comptroller General shall submit a report on the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The report shall include the Comptroller General's assessment regarding whether it is feasible to implement within the United States any of the same or similar security measures that are determined effective under the study.

SEC. —05. PASSENGER, BAGGAGE, AND CARGO SCREENING.

(a) REQUIREMENT FOR STUDY AND REPORT.—The Under Secretary of Homeland Security for Border and Transportation Security, in cooperation with the Secretary of Transportation, shall—

(1) analyze the cost and feasibility of requiring security screening for passengers, baggage, and cargo on passenger trains; and

(2) report the results of the study, together with any recommendations that the Under Secretary may have for implementing a rail security screening program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

(b) PILOT PROGRAM.—As part of the study under subsection (a), the Under Secretary shall complete a pilot program of random security screening of passengers and baggage at 5 passenger rail stations served by Amtrak selected by the Under Secretary. In conducting the pilot program, the Under Secretary shall—

(1) test a wide range of explosives detection technologies, devices and methods;

(2) require that intercity rail passengers produce government-issued photographic identification which matches the name on the passenger's tickets prior to boarding trains; and

(3) attempt to give preference to locations at the highest risk of terrorist attack and achieve a distribution of participating train stations in terms of geographic location, size, passenger volume, and whether the station is used by commuter rail passengers as well as Amtrak passengers.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security to carry out this section $5,000,000 for fiscal year 2005.

SEC. —06. CERTAIN PERSONNEL LIMITATIONS NOT TO APPLY.

Any statutory limitation on the number of employees in the Transportation Security Administration of the Department of Transportation, before or after its transfer to the Department of Homeland Security, does not apply to the extent that any such employees are responsible for implementing the provisions of this title.

SEC. —07. FIRE AND LIFE-SAFETY IMPROVEMENTS.

(a) LIFE-SAFETY NEEDS.—The Secretary of Transportation is authorized to make grants to Amtrak for the purpose of making fire and life-safety improvements to Amtrak tunnels on the Northeast Corridor in New York, NY, Baltimore, MD, and Washington, DC.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts:

(1) For the 6 New York tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—

(A) $100,000,000 for fiscal year 2005;
(B) $100,000,000 for fiscal year 2006;
(C) $100,000,000 for fiscal year 2007;
(D) $100,000,000 for fiscal year 2008; and
(E) $170,000,000 for fiscal year 2009.

(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

(A) $10,000,000 for fiscal year 2005;
(B) $10,000,000 for fiscal year 2006;
(C) $10,000,000 for fiscal year 2007;
(D) $10,000,000 for fiscal year 2008; and
(E) $17,000,000 for fiscal year 2009.

(3) For the Washington, DC Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

(A) $8,000,000 for fiscal year 2005;
(B) $8,000,000 for fiscal year 2006;
(C) $8,000,000 for fiscal year 2007;
(D) $8,000,000 for fiscal year 2008; and
(E) $8,000,000 for fiscal year 2009.

(c) INFRASTRUCTURE UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for fiscal year 2005 $3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

(e) PLANS REQUIRED.—The Secretary may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—

(1) until Amtrak has submitted to the Secretary, and the Secretary has approved, an engineering and financial plan for such projects; and

(2) unless, for each project funded pursuant to this section, the Secretary has approved a project management plan prepared by Amtrak addressing appropriate project budget, construction schedule, recipient staff organization, document control and record keeping, change order procedure, quality control and assurance, periodic plan updates, periodic status reports, and such other matters the Secretary deems appropriate.

(f) REVIEW OF PLANS.—The Secretary of Transportation shall complete the review of the plans required by paragraphs (1) and (2) of subsection (e) and approve or disapprove the plans within 45 days after the date on which each such plan is submitted by Amtrak. If the Secretary determines that a plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30

days after receiving the Secretary's notification, submit a modified plan for the Secretary's review. Within 15 days after receiving additional information on items previously included in the plan, and within 45 days after receiving items newly included in a modified plan, the Secretary shall either approve the modified plan, or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the portions of the plan the Secretary finds incomplete or deficient, approve all other portions of the plan, obligate the funds associated with those other portions, and execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

(g) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers at levels reflecting the extent of their use of the tunnels, if feasible.

SEC. —08. MEMORANDUM OF AGREEMENT.

(a) MEMORANDUM OF AGREEMENT.—Within 60 days after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall execute a memorandum of agreement governing the roles and responsibilities of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

(b) RAIL SAFETY REGULATIONS.—Section 20103(a) of title 49, United States Code, is amended by striking ''safety'' the first place it appears, and inserting ''safety, including security,''.

SEC. —09. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

''§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents

''(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Rail Security Act of 2004, Amtrak shall submit to the Chairman of the National Transportation Safety Board and the Secretary of Transportation a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.

''(b) CONTENTS OF PLANS.—The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:

''(1) A process by which Amtrak will maintain and provide to the National Transportation Safety Board and the Secretary of Transportation, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

''(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

''(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

''(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

''(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control; that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.

''(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

''(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

''(c) USE OF INFORMATION.—The National Transportation Safety Board, the Secretary of Transportation, and Amtrak may not release to any person information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.

''(d) LIMITATION ON LIABILITY.—Amtrak shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of Amtrak in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by Amtrak under subsection (b), unless such liability was caused by Amtrak's conduct.

''(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that Amtrak may take, or the obligations that Amtrak may have, in providing assistance to the families of passengers involved in a rail passenger accident.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak $500,000 for fiscal year 2005 to carry out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

''Sec.
''24316. Plan to assist families of passengers involved in rail passenger accidents''.

SEC. —10. SYSTEMWIDE AMTRAK SECURITY UPGRADES.

(a) IN GENERAL—Subject to subsection (c), the Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants, through the Secretary of Transportation, to Amtrak—

(1) to secure major tunnel access points and ensure tunnel integrity in New York, Baltimore, and Washington, DC;

(2) to secure Amtrak trains;

(3) to secure Amtrak stations;

(4) to obtain a watch list identification system approved by the Under Secretary;

(5) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(6) to hire additional police and security officers, including canine units; and

(7) to expand emergency preparedness efforts.

(b) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless the projects are contained in a systemwide security plan approved by the Under Secretary, in consultation with the Secretary of Transportation, and, for capital projects, meet the requirements of section —07(e)(2). The plan shall include appropriate measures to address security awareness, emergency response, and passenger evacuation training.

(c) EQUITABLE GEOGRAPHIC ALLOCATION.—The Under Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(d) AVAILABILITY OF FUNDS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $63,500,000 for fiscal year 2005 for the purposes of carrying out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. —11. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.

(a) SECURITY IMPROVEMENT GRANTS.—The Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants to freight railroads, the Alaska Railroad, hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, universities, colleges and research centers, State and local governments (for passenger facilities and infrastructure not owned by Amtrak), and, through the Secretary of Transportation, to Amtrak, for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security threats, including—

(1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations;

(2) accommodation of cargo or passenger screening equipment at the United States-Mexico border or the United States-Canada border;

(3) the security of hazardous material transportation by rail;

(4) secure intercity passenger rail stations, trains, and infrastructure;

(5) structural modification or replacement of rail cars transporting high hazard materials to improve their resistance to acts of terrorism;

(6) employee security awareness, preparedness, passenger evacuation, and emergency response training;

(7) public security awareness campaigns for passenger train operations;

(8) the sharing of intelligence and information about security threats;

(9) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(10) to hire additional police and security officers, including canine units; and

(11) other improvements recommended by the report required by section —02, including infrastructure, facilities, and equipment upgrades.

(b) ACCOUNTABILITY.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Under Secretary.

(c) EQUITABLE ALLOCATION.—The Under Secretary shall equitably distribute the funds authorized by this section, taking into account geographic location, and shall encourage non-Federal financial participation in awarding grants. With respect to grants for passenger rail security, the Under Secretary shall also take into account passenger volume and whether a station is used by commuter rail passengers as well as intercity rail passengers.

(d) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless Amtrak meets the conditions set forth in section —10(b) of this title.

(e) ALLOCATION BETWEEN RAILROADS AND OTHERS.—Unless as a result of the assessment required by section —02 the Under Secretary of Homeland Security for Border and Transportation Security determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made—

(1) in excess of $65,000,000 to Amtrak; or

(2) in excess of $100,000,000 for the purposes described in paragraphs (3) and (5) of subsection (a).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $350,000,000 for fiscal year 2005 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

(g) HIGH HAZARD MATERIALS DEFINED.—In this section, the term ''high hazard materials'' means poison inhalation hazard materials, Class 2.3 gases, Class 6.1 materials, and anhydrous ammonia.

SEC. —12. OVERSIGHT AND GRANT PROCEDURES.

(a) SECRETARIAL OVERSIGHT.—The Secretary of Transportation may use up to 0.5 percent of amounts made available to Amtrak for capital projects under the Rail Security Act of 2004 to enter into contracts for the review of proposed capital projects and related program management plans and to oversee construction of such projects.

(b) USE OF FUNDS.—The Secretary may use amounts available under subsection (a) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under subsection (a).

(c) PROCEDURES FOR GRANT AWARD.—The Under Secretary shall prescribe procedures and schedules for the awarding of grants under this title, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Under Secretary. The Under Secretary shall issue a final rule establishing the procedures not later than 90 days after the date of enactment of this Act.

SEC. —13. RAIL SECURITY RESEARCH AND DEVELOPMENT.

(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Under Secretary of Homeland Security for Border and Transportation Security, in conjunction with the Secretary of Transportation, shall carry out a research and development program for the purpose of improving freight and intercity passenger rail security that may include research and development projects to—

(1) reduce the vulnerability of passenger trains, stations, and equipment to explosives and hazardous chemical, biological, and radioactive substances;

(2) test new emergency response techniques and technologies;

(3) develop improved freight technologies, including—

(A) technologies for sealing rail cars;

(B) automatic inspection of rail cars;

(C) communication-based train controls; and

(D) emergency response training;

(4) test wayside detectors that can detect tampering with railroad equipment; and

(5) support enhanced security for the transportation of hazardous materials by rail, including—

(A) technologies to detect a breach in a tank car and transmit information about the integrity of tank cars to the train crew;

(B) research to improve tank car integrity, with a focus on tank cars that carry high hazard materials (as defined in section —11(g) of this title;

(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety;

(6) other projects recommended in the report required by section —02.

(b) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Under Secretary of Homeland Security for Border and Transportation Security shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department and the Department of Transportation. The Under Secretary of Homeland Security for Border and Transportation Security shall carry out any research and development project authorized by this section through a reimbursable agreement with the Secretary of Transportation if the Secretary of Transportation—

(1) is already sponsoring a research and development project in a similar area; or

(2) has a unique facility or capability the would be useful in carrying out the project.

(c) ACCOUNTABILITY.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Under Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $50,000,000 in each of fiscal years 2005 and 2006 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. —14. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENTS.

(a) TRACK STANDARDS.—Within 90 days after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) require each track owner using continuous welded rail track to include procedures (in its procedures filed with the Administration pursuant to section 213.119 of title 49, Code of Federal Regulations) to improve the identification of cracks in rail joint bars;

(2) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the inspectors' areas of responsibility and require that inspectors use those programs when conducting track inspections; and

(3) establish a program to periodically review continuous welded rail joint bar inspection data from railroads and Administration track inspectors and, whenever the Administration determines that it is necessary or appropriate, require railroads to increase the frequency or improve the methods of inspection of joint bars in continuous welded rail.

(b) TANK CAR STANDARDS.—The Federal Railroad Administration shall—

(1) within 1 year after the date of enactment of this Act, validate the predictive model it is developing to quantify the relevant dynamic forces acting on railroad tank cars under accident conditions; and

(2) within 18 months after the date of enactment of this Act, initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars.

(c) OLDER TANK CAR IMPACT RESISTANCE ANALYSIS AND REPORT.—Within 2 years after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989; and

(2) transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure with recommendations for measures to eliminate or mitigate the risk of catastrophic failure.

SEC. —15. NORTHERN BORDER RAIL PASSENGER REPORT.

Within 180 days after the date of enactment of this Act, the Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the heads of other appropriate Federal departments and agencies and the National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that contains—

(1) a description of the current system for screening passengers and baggage on passenger rail service between the United States and Canada;

(2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in ''The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America'', dated January 18, 2001;

(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the ''Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States'', dated April 2, 2003;

(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;

(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing prescreened passenger lists for rail passengers travelling between the United States and Canada to the Department of Homeland Security;

(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers; and

(7) a draft of any changes in existing Federal law necessary to provide for pre-screening of such passengers and providing prescreened passenger lists to the Department of Homeland Security.

SEC. —16. REPORT REGARDING IMPACT ON SECURITY OF TRAIN TRAVEL IN COMMUNITIES WITHOUT GRADE SEPARATION.

(a) STUDY.—The Secretary of Homeland Security shall, in consultation with State and local government officials, conduct a study on the impact of blocked highway-railroad grade crossings on the ability of emergency responders, including ambulances and police, fire, and other emergency vehicles, to perform public safety and security duties in the event of a terrorist attack.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the findings of the study conducted under subsection (a) and recommendations for reducing the impact of blocked crossings on emergency response.

SEC. —17. WHISTLEBLOWER PROTECTION PROGRAM.

(a) IN GENERAL.—Subchapter A of chapter 201 of title 49, United States Code, is amended by inserting after section 20115 the following:

"§ 20116. Whistleblower protection for rail security matters

''(a) DISCRIMINATION AGAINST EMPLOYEE.—No rail carrier engaged interstate or foreign commerce may discharge a railroad employee or otherwise discriminate against a railroad employee because the employee (or any person acting pursuant to a request of the employee)—

(1) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to a perceived threat to security; or

''(2) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding a perceived threat to security; or

''(3) refused to violate or assist in the violation of any law, rule or regulation related to rail security.

''(b) DISPUTE RESOLUTION.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved not later than 180 days after it is filed. If the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this subsection, the Board, division, delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than $20,000.

''(c) PROCEDURAL REQUIREMENTS.—Except as provided in subsection (b), the procedure set forth in section 42121(b)(2)(B) of this title, including the burdens of proof, applies to any complaint brought under this section.

''(d) ELECTION OF REMEDIES.—An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier.

''(e) DISCLOSURE OF IDENTITY.—

''(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section.

''(2) The Secretary shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 of title 49, United States Code, is amended by inserting after the item relating to section 20115 the following:

''20116. Whistleblower protection for rail security matters''.

SEC. —18. EFFECTIVE DATE.

This title takes effect on the date of enactment of this Act.

SA 3864. Mr. FRIST 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:

At the appropriate place insert the following:

Section 145(c) of the Aviation and Transportation Security Act (49 U.S.C. 40101 note) is amended by striking ''more than'' and all that follows through ''after'' and inserting ''more than 48 months after''.

SA 3865. Mr. AKAKA 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 77, insert between lines 18 and 19, the following:

(j) SENSE OF CONGRESS RELATING TO ADOPTION OF STANDARDS OF REVIEW.—It is the sense of Congress that the Inspector General of the National Intelligence Authority, in consultation with other inspectors general in the intelligence community and the President's Council on Integrity and Efficiency, should adopt standards for review and related precedent that is generally used by the intelligence community for reviewing whistleblower reprisal complaints made under this section.

SA 3866. 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:

At the appropriate place, insert the following:

TITLE ___—RACIAL PROFILING

SEC. ___01. DEFINITIONS.

As used in this section:

(1) RACIAL PROFILING.—The term ''racial profiling'' means the practice of a law enforcement agent relying, to any degree, on race, ethnicity, religion, or national origin in selecting which individuals to subject to routine or spontaneous investigatory activities, or in deciding upon the scope and substance of law enforcement activity following the initial investigatory procedure, except when there is trustworthy information, relevant to the locality and timeframe, that links persons of a particular race, ethnicity, religion, or national origin to an identified criminal incident or scheme.

(2) ROUTINE OR SPONTANEOUS INVESTIGATORY ACTIVITIES.—The term ''routine or spontaneous investigatory activities'' means the following activities by law enforcement agents:

(A) Interviews.

(B) Traffic stops.

(C) Pedestrian stops.

(D) Frisks and other types of body searches.

(E) Consensual or nonconsensual searches of the persons or possessions (including vehicles) of motorists or pedestrians.

(F) Inspections and interviews of entrants into the United States that are more extensive than those customarily carried out.

(G) Immigration related workplace investigations.

(H) Other types of law enforcement encounters compiled by the Federal Bureau of Investigations or the Bureau of Justice Statistics.

SEC. ___2. POLICIES TO ELIMINATE RACIAL PROFILING BY FEDERAL LAW ENFORCEMENT.

(a) IN GENERAL.—Federal law enforcement agencies shall—

(1) maintain adequate policies and procedures designed to eliminate racial profiling; and

(2) cease existing practices that encourage racial profiling.

(b) POLICIES AND PROCEDURES.—The policies and procedures maintained under subsection (a)(1) shall include—

(1) a prohibition on racial profiling;

(2) independent procedures for receiving, investigating, and responding meaningfully to complaints alleging racial profiling by law enforcement agents of the agency;

(3) procedures to discipline law enforcement agents who engage in racial profiling; and

(4) such other policies or procedures that the Attorney General, in consultation with the Secretary of Homeland Security, determines necessary to eliminate racial profiling.

(c) INTENT.—Nothing in this title is intended to impede the ability of Federal law enforcement to protect the country and its people from any threat, be it foreign or domestic.

SEC. ___03. REPORTS ON RACIAL PROFILING IN THE UNITED STATES.

(a) ANNUAL REPORT.—Not later than 2 years after the date of enactment of this Act, and each year thereafter, the Attorney General, in consultation with the Secretary of Homeland Security, shall submit to Congress a report on efforts to combat racial profiling in the United States.

(b) CONTENTS.—Each report under subsection (a) shall include, for the 1-year period ending on the date of such report—

(1) the status of the adoption and implementation of policies and procedures by Federal law enforcement agencies pursuant to section ___02; and

(2) a description of any other policies and procedures that the Attorney General, in consultation with the Secretary of Homeland Security, believes would facilitate the elimination of racial profiling, including best practices utilized by Federal, State, or local law enforcement agencies.

SA 3867. Mr. LEVIN (for himself and Mr. COLEMAN) 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:

At the appropriate place, insert the following:

SEC. ___. TERRORISM FINANCING.

(a) REPORT ON TERRORIST FINANCING.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President, acting through the Secretary of the Treasury, shall submit to Congress a report evaluating the current state of United States efforts to curtail the international financing of terrorism.

(2) CONTENTS.—The report required by paragraph (1) shall evaluate and make recommendations on—

(A) the effectiveness and efficiency of current United States governmental efforts and methods to detect, track, disrupt, and stop terrorist financing;

(B) the relationship between terrorist financing and money laundering, including how the laundering of proceeds related to illegal narcotics or foreign political corruption may contribute to terrorism or terrorist financing;

(C) the nature, effectiveness, and efficiency of current efforts to coordinate intelligence and agency operations within the United States Government to detect, track, disrupt, and stop terrorist financing, including identifying who, if anyone, has primary responsibility for developing priorities, assigning tasks to agencies, and monitoring the implementation of policy and operations; and

(D) ways to improve the setting of priorities and coordination of United States efforts to detect, track, disrupt, and stop terrorist financing, including recommendations for changes in executive branch organization or procedures, legislative reforms, or use of appropriated funds.

(b) POSTEMPLOYMENT RESTRICTION FOR CERTAIN BANK AND THRIFT EXAMINERS.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following:

''(k) ONE-YEAR RESTRICTIONS ON FEDERAL EXAMINERS OF FINANCIAL INSTITUTIONS.—

''(1) IN GENERAL.—In addition to other applicable restrictions set forth in title 18, United States Code, the penalties set forth in paragraph (6) of this subsection shall apply to any person who—

''(A) was an officer or employee (including any special Government employee) of a Federal banking agency or a Federal reserve bank;

''(B) served 2 or more months during the final 12 months of his or her employment with such agency or entity as the senior examiner (or a functionally equivalent position) of a depository institution or depository institution holding company with continuing, broad responsibility for the examination (or inspection) and supervision of that depository institution or depository institution holding company on behalf of the relevant agency or Federal reserve bank; and

''(C) within 1 year after the termination date of his or her service or employment with such agency or entity, knowingly accepts compensation as an employee, officer, director, or consultant from—

''(i) such depository institution, any depository institution holding company that controls such depository institution, or any other company that controls such depository institution; or

''(ii) such depository institution holding company or any depository institution that is controlled by such depository institution holding company.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'depository institution' includes an uninsured branch or agency of a foreign bank, if such branch or agency is located in any State; and

''(B) the term 'depository institution holding company' includes any foreign bank or company described in section 8(a) of the International Banking Act of 1978.

''(3) RULES OF CONSTRUCTION.—For purposes of this subsection, a foreign bank shall be deemed to control any branch or agency of the foreign bank, and a person shall be deemed to act as a consultant for a depository institution, depository institution holding company, or other company, only if such person directly works on matters for, or on behalf of, such depository institution, depository institution holding company, or other company.

''(4) REGULATIONS.—

''(A) IN GENERAL.—Each Federal banking agency shall prescribe rules or regulations to administer and carry out this subsection, including rules, regulations, or guidelines to define the scope of persons referred to in paragraph (1)(B).

''(B) CONSULTATION REQUIRED.—The Federal banking agencies shall consult with each other for the purpose of assuring that the rules and regulations issued by the agencies under subparagraph (A) are, to the extent possible, consistent and comparable and practicable, taking into account any differences in the supervisory programs utilized by the agencies for the supervision of depository institutions and depository institution holding companies.

''(5) WAIVER.—

''(A) AGENCY AUTHORITY.—A Federal banking agency may grant a waiver, on a case by case basis, of the restriction imposed by this subsection to any officer or employee (including any special Government employee) of that agency, and the Board of Governors of the Federal Reserve System may grant a waiver of the restriction imposed by this subsection to any officer or employee of a Federal reserve bank, if the head of such agency certifies in writing that granting the waiver would not affect the integrity of the supervisory program of the relevant Federal banking agency.

''(B) DEFINITION.—For purposes of this paragraph, the head of an agency is—

''(i) the Comptroller of the Currency, in the case of the Office of the Comptroller of the Currency;

''(ii) the Chairman of the Board of Governors of the Federal Reserve System, in the case of the Board of Governors of the Federal Reserve System;

''(iii) the Chairperson of the Board of Directors, in the case of the Corporation; and

''(iv) the Director of the Office of Thrift Supervision, in the case of the Office of Thrift Supervision.

''(6) PENALTIES.—

''(A) VIOLATORS SUBJECT TO INDUSTRY-WIDE PROHIBITION ORDER.—In addition to any other penalty that may apply, whenever a Federal banking agency determines that a person subject to paragraph (1) has violated paragraph (1) by becoming associated, in the manner described in paragraph (1)(C), with a depository institution, depository institution holding company, or other company for which such agency serves as the appropriate Federal banking agency, the agency shall serve a written notice or order, in accordance with and subject to the provisions of section 8(e)(4) for written notices or orders under paragraphs (1) or (2) of section 8(e), upon such person of the intention of the agency—

''(i) to remove such person from office or to prohibit such person from further participation in the conduct of the affairs of the depository institution, depository institution holding company, or other company for a period of up to 5 years; and

''(ii) to prohibit any further participation by such person, in any manner, in the conduct of the affairs of any insured depository institution for a period of up to 5 years.

''(B) SCOPE OF PROHIBITION ORDER.—Any person subject to an order issued under this subsection shall be subject to paragraphs (6) and (7) of section 8(e) in the same manner and to the same extent as a person subject to an order issued under such section.

''(C) ADDITIONAL CRIMINAL AND CIVIL PENALTIES.—In addition to the civil penalties provided for in this paragraph, any person who violates this subsection shall be punished as provided in section 216 of title 18, United States Code.

''(D) DEFINITIONS.—Solely for purposes of this paragraph, the 'appropriate Federal banking agency' for a company that is not a depository institution or depository institution holding company shall be the Federal banking agency on whose behalf the person described in paragraph (1) performed the functions described in paragraph (1)(B).''.

(c) POSTEMPLOYMENT RESTRICTION FOR CERTAIN CREDIT UNION EXAMINERS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following:

''(w) ONE-YEAR RESTRICTIONS ON FEDERAL EXAMINERS OF INSURED CREDIT UNIONS.—

''(1) IN GENERAL.—In addition to other applicable restrictions set forth in title 18, United States Code, the penalties set forth in paragraph (5) of this subsection shall apply to any person who—

''(A) was an officer or employee (including any special Government employee) of the Administration;

''(B) served 2 or more months during the final 12 months of his or her employment with the Administration as the senior examiner (or a functionally equivalent position) of an insured credit union with continuing, broad responsibility for the examination (or inspection) and supervision of that insured credit union on behalf of the Administration; and

''(C) within 1 year after the termination date of his or her service or employment with the Administration, knowingly accepts compensation as an employee, officer, director, or consultant from such insured credit union.

''(2) RULE OF CONSTRUCTION.—For purposes of this subsection, a person shall be deemed to act as a consultant for an insured credit union only if such person directly works on matters for, or on behalf of, such insured credit union.

''(3) REGULATIONS.—

''(A) IN GENERAL.—The Board shall prescribe rules or regulations to administer and carry out this subsection, including rules, regulations, or guidelines to define the scope of persons referred to in paragraph (1)(B).

''(B) CONSULTATION.—In prescribing rules or regulations under this paragraph, the Board shall, to the extent it deems necessary, consult with the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) on regulations issued by such agencies in carrying out section 10(k) of the Federal Deposit Insurance Act.

''(4) WAIVER.—

''(A) AGENCY AUTHORITY.—The Board may grant a waiver, on a case by case basis, of the restriction imposed by this subsection to any officer or employee (including any special Government employee) of the Administration if the Chairman certifies in writing that granting the waiver would not affect the integrity of the supervisory program of the Administration.

''(5) PENALTIES.—

''(A) VIOLATORS SUBJECT TO INDUSTRY-WIDE PROHIBITION ORDER.—In addition to any other penalty that may apply, whenever the Board

determines that a person subject to paragraph (1) has violated paragraph (1) by becoming associated, in the manner described in paragraph (1)(C), with an insured credit union, the Board shall serve written notice, in accordance with and subject to the provisions of subsection (g)(4) for written notices under paragraphs (1) or (2) of subsection (g), upon such person of the intention of the Board—

''(i) to remove such person from office or to prohibit such person from further participation in the conduct of the affairs of the insured credit union for a period of up to 5 years; and

''(ii) to prohibit any further participation by such person, in any manner, in the conduct of the affairs of any insured credit union for a period of up to 5 years.

''(B) SCOPE OF PROHIBITION ORDER.—Any person subject to an order issued under this subsection shall be subject to paragraphs (5) and (7) of subsection (g) in the same manner and to the same extent as a person subject to an order issued under subsection (g).

''(C) ADDITIONAL CRIMINAL AND CIVIL PENALTIES.—In addition to the civil penalties provided for in this paragraph, any person who violates this subsection shall be punished as provided in section 216 of title 18, United States Code.''.

(d) EFFECTIVE DATE.—Notwithstanding section 341, subsection (a) shall become effective on the date of enactment of this Act, and the amendments made by subsections (b) and (c) shall become effective at the end of the 12-month period beginning on the date of enactment of this Act, whether or not final regulations are issued in accordance with the amendments made by this section as of that date of enactment.

SA 3868. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 52, strike line 21 and all that follows through page 56, line 8.

Beginning on page 60, strike line 5 and all that follows though page 81, line 14.

Beginning on page 153, strike line 5 and all that follows through page 170, line 8 and insert the following:

SEC. 211. BOARD ON SAFEGUARDING AMERICANS' CIVIL LIBERTIES.

(a) POLICY.—The United States Government has a solemn obligation, and shall continue fully, to protect the legal rights of all Americans, including freedoms, civil liberties, and information privacy guaranteed by Federal law, in the effective performance of national security and homeland security functions.

(b) ESTABLISHMENT OF BOARD.—To advance the policy set out in subsection (a), there is established the President's Board on Safeguarding Americans' Civil Liberties (hereinafter referred to as the ''Board''). The Board shall be part of the Department of Justice for administrative purposes.

(c)FUNCTIONS.—The Board shall—

(1) advise the President on effective means to implement the policy set out in subsection (a);

(2) keep the President informed of the implementation of such policy;

(3) periodically request reports from Federal departments and agencies relating to policies and procedures that ensure implementation of the policy set out in subsection (a);

(4) recommend to the President policies, guidelines, and other administrative actions, technologies, and legislation, as necessary to implement the such policy;

(5) at the request of the head of any Federal department or agency, unless the Chair of the Board, after consultation with the Vice Chair, declines the request, promptly review and provide advice on a policy or action of that department or agency that implicates the policy set out in subsection (a);

(6) obtain information and advice relating to such policy from representatives of entities or individuals outside the executive branch of the Federal Government in a manner that seeks their individual advice and does not involve collective judgment or consensus advice or deliberation;

(7) refer, consistent with section 535 of title 28, United States Code, credible information pertaining to possible violations of law relating to the Policy by any Federal employee or official to the appropriate office for prompt investigation;

(8) take steps to enhance cooperation and coordination among Federal departments and agencies in the implementation of the Policy, including but not limited to working with the Director of the Office of Management and Budget and other officers of the United States to review and assist in the coordination of guidelines and policies concerning national security and homeland security efforts, such as information collection and sharing; and

(9) undertake other efforts to protect the legal rights of all Americans, including freedoms, civil liberties, and information privacy guaranteed by Federal law, as the President may direct;

(d) ADVISORY COMMITTEES.—Upon the recommendation of the Board, the Attorney General or the Secretary of Homeland Security may establish one or more committees that include individuals from outside the executive branch of the Federal Government, in accordance with applicable law, to advise the Board on specific issues relating to the policy set out in subsection (a). Any such committee shall carry out its functions separately from the Board.

(e) MEMBERSHIP AND OPERATION.—The Board shall consist exclusively of the following:

(1) the Deputy Attorney General, who shall serve as Chair;

(2) the Under Secretary for Border and Transportation Security, Department of Homeland Security, who shall serve as Vice Chair;

(3) the Assistant Attorney General, Civil Rights Division;

(4) the Assistant Attorney General, Office of Legal Policy;

(5) the Counsel for Intelligence Policy, Department of Justice;

(6) the Chair of the Privacy Council, Federal Bureau of Investigation;

(7) the Assistant Secretary for Information Analysis, Department of Homeland Security;

(8) the Assistant Secretary, Policy, Directorate of Border and Transportation Security, Department of Homeland Security;

(9) the Officer for Civil Rights and Civil Liberties, Department of Homeland Security;

(10) the Privacy Officer, Department of Homeland Security;

(11) the Under Secretary for Enforcement, Department of the Treasury;

(12) the Assistant Secretary (Terrorist Financing), Department of the Treasury;

(13) the General Counsel, Office of Management and Budget;

(14) the Deputy Director of Central Intelligence for Community Management;

(15) the General Counsel, Central Intelligence Agency;

(16) the General Counsel, National Security Agency;

(17) the Under Secretary of Defense for Intelligence;

(18) the General Counsel of the Department of Defense;

(19) the Legal Adviser, Department of State;

(20) the Director, Terrorist Threat Integration Center; and

(21) such other officers of the United States as the Deputy Attorney General may from time to time designate.

(f) DELEGATION.—A member of the Board may designate, to perform the Board or Board subgroup functions of the member, any person who is part of such member's department or agency and who is either an officer of the United States appointed by the President, or a member of the Senior Executive Service or the Senior Intelligence Service.

(g) ADMINISTRATIVE MATTERS.—The Chair, after consultation with the Vice Chair, shall convene and preside at meetings of the Board, determine its agenda, direct its work, and, as appropriate to deal with particular subject matters, establish and direct subgroups of the Board that shall consist exclusively of members of the Board. The Chair may invite, in his discretion, officers or employees of other departments or agencies to participate in the work of the Board. The Chair shall convene the first meeting of the Board within 20 days after the date of the enactment of this Act and shall thereafter convene meetings of the Board at such times as the Chair, after consultation with the Vice Chair, deems appropriate. The Deputy Attorney General shall designate an official of the Department of Justice to serve as the Executive Director of the Board.

(h) COOPERATION.—To the extent permitted by law, all Federal departments and agencies shall cooperate with the Board and provide the Board with such information, support, and assistance as the Board, through the Chair, may request.

(i) ADMINISTRATION.— Consistent with applicable law and subject to the availability of appropriations, the Department of Justice shall provide the funding and administrative support for the Board necessary to implement this section.

(j) GENERAL PROVISIONS.—

(1) RELATIONSHIP TO OTHER AUTHORITY.—The provisions of this section shall not be construed to impair or otherwise affect the authorities of any department, agency, instrumentality, officer, or employee of the United States under applicable law, including the functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(2) RELATIONSHIP TO OTHER LAWS.—The provisions of this section shall be implemented in a manner consistent with applicable laws and Executive Orders concerning protection of information, including those for the protection of intelligence sources and methods, law enforcement information, and classified national security information, and the Privacy Act of 1974 (5 U.S.C. 552a).

(3) INTERNAL MANAGEMENT.—The provisions of this section are intended only to improve the internal management of the Federal Government and is not intended to, and do not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by a party against the United States, or any of its departments, agencies, instrumentalities, entities, officers, employees, or agents, or any other person.

SA 3869. Mr. SESSIONS 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:

Beginning on page 52, strike line 21 and all that follows through page 56, line 8.

Beginning on page 60, strike line 5 and all that follows though page 81, line 14.

Beginning on page 153, strike line 3 and all that follows through page 170, line 8.

SA 3870. Mr. SESSIONS 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:

At the appropriate place, insert the following:

SEC. ___. PERMANENT INFORMATION SHARING.

Section 224 of the USA PATRIOT ACT (Public Law 107–56) is amended by—

(1) striking ''203(a), 203(c)'' and inserting ''203''; and

(2) inserting ''218,'' after ''216,''.

SA 3871. Mr. SESSIONS (for himself, Mr. CORNYN, Mr. MILLER, and Mr. ENSIGN) 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 213, after line 12, add the following:

TITLE IV—IMMIGRATION ENFORCEMENT

SEC. 401. FEDERAL AFFIRMATION OF STATE AND LOCAL ASSISTANCE IN ENFORCEMENT OF FEDERAL IMMIGRATION LAWS.

(a) IN GENERAL.—Notwithstanding any other provision of law and reaffirming the existing inherent authority of States, law enforcement personnel of a State or a political subdivision of a State have the inherent authority of a sovereign entity to investigate, apprehend, arrest, detain, or transfer to Federal custody aliens in the United States (including the transportation of such aliens across State lines to detention centers), in the course of carrying out their routine duties for the purpose of assisting in the enforcement of the immigration laws of the United States.

(b) CONSTRUCTION.—Nothing in this section shall be construed to require law enforcement officers of a State or political subdivision of a State to—

(1) report the identity of victims of, or witnesses to, a criminal offense to the Secretary of Homeland Security; or

(2) arrest such victims or witnesses for immigration violations.

SEC. 402. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) PROVISION OF INFORMATION TO NCIC.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and continually thereafter, the Under Secretary for Border and Transportation Security of the Department of Homeland Security shall provide the National Crime Information Center of the Department of Justice with such information as the Under Secretary may have on—

(A) all aliens against whom a final order of removal has been issued;

(B) all aliens who have signed a voluntary departure agreement; and

(C) all aliens whose visas have been revoked.

(2) CIRCUMSTANCES.—The information described in paragraph (1) shall be provided to the National Crime Information Center regardless of whether—

(A) the alien received notice of a final order of removal; or

(B) the alien has already been removed.

(b) INCLUSION OF INFORMATION IN NCIC DATABASE.—Section 534(a) of title 28, United States Code, is amended—

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

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following:

''(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States; and''.

(c) PERMISSION TO DEPART VOLUNTARILY.—Section 240B(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1229c(a)(2)(A)) is amended by striking ''120'' and inserting ''30''.

SEC. 403. FEDERAL CUSTODY OF ILLEGAL ALIENS APPREHENDED BY STATE OR LOCAL LAW ENFORCEMENT.

(a) IN GENERAL.—Section 241 of the Immigration and Nationality Act (8 U.S.C. 1231) is amended by adding at the end the following:

''(j) CUSTODY OF ILLEGAL ALIENS.—

''(1) IN GENERAL.—If the chief executive officer of a State or, if appropriate, a political subdivision of the State, exercising authority with respect to the apprehension of an illegal alien submits a request to the Secretary of Homeland Security that the alien be taken into Federal custody, the Secretary of Homeland Security—

''(A) shall—

''(i) not later than 48 hours after the conclusion of the State charging process or dismissal process, or if no State charging or dismissal process is required, not later than 48 hours after the illegal alien is apprehended, take the illegal alien into the custody of the Federal Government and incarcerate the alien; or

''(ii) request that the relevant State or local law enforcement agency temporarily incarcerate or transport the illegal alien for transfer to Federal custody; and

''(B) shall designate at least 1 Federal, State, or local prison or jail, or a private contracted prison or detention facility, within each State as the central facility for that State to transfer custody of the criminal or illegal alien to the Secretary of Homeland Security.

''(2) REIMBURSEMENT.—

''(A) IN GENERAL.—The Department of Homeland Security shall reimburse States and political subdivisions for all reasonable expenses, as determined by the Secretary of Homeland Security, incurred by a State or political subdivision in the incarceration and transportation of an illegal alien as described in subparagraphs (A) and (B) of paragraph (1).

''(B) COST COMPUTATION.—Compensation provided for costs incurred under subparagraphs (A) and (B) of paragraph (1) shall be the sum of—

''(i)(I) the average cost of incarceration of a prisoner per day in the relevant State, as determined by the chief executive officer of a State, or, as appropriate, a political subdivision of the State; multiplied by

''(II) the number of days that the alien was in the custody of the State or political subdivision; and

''(ii) the cost of transporting the criminal or illegal alien—

''(I) from the point of apprehension to the place of detention; and

''(II) if the place of detention and place of custody are different, to the custody transfer point.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out paragraph (2).''.

SA 3872. Mr. SESSIONS (for himself and Mr. ENSIGN) 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:

At the appropriate place, insert the following:

SEC. ___. BIOMETRIC STANDARDS FOR PASSPORTS.

(a) FINDINGS.—Congress finds the following:

(1) The 9/11 Commission Report made clear that the incapacity to establish the authenticity of United States passports through a biometric identifier is a major gap in homeland security when it stated, ''Americans should not be exempt from carrying biometric passports or otherwise enabling their identities to be securely verified when they enter the United States; nor should Canadians or Mexicans''.

(2) The Enhanced Border Security and Visa Entry Reform Act of 2002 requires Visa Waiver Program countries to conform to a biometric standard negotiated through the International Civil Aviation Organization, rather than requiring a specific type of biometric identifier. The standard agreed upon by the international community is facial recognition, consisting of a picture with a computer chip embedded in the passport to verify the picture.

(3) Facial recognition biometric technology remains inferior to fingerprint biometric technology for the purpose of one-to-many matches and is not consistent with the biometric information that the United States collects from visa applicants through its visa issuance process. Consequently, individuals from Visa Waiver Program countries who do not go through visa applications and interviews at the point of origin are admitted into the United States with only a facial biometric identifier contained in their passport.

(4) In order to be eligible for the Visa Waiver Program, Visa Waiver Program countries should issue visas and passports that conform with the same biometric standard as travel documents issued by the United States.

(5) Because the United Sates must set an example in the establishment of an international travel document biometric identification standard, and must ensure that United States issued passports are not used by non-United States citizens to fraudulently gain entrance into the United States, the United States should not only comply with the standards set by the International Civil Aviation Organization, but should include fingerprints as a second additional biometric identifier on the passports it issues to its citizens.

(b) FINGERPRINTS ON UNITED STATES PASSPORTS.—

(1) IN GENERAL.—The Secretary of State shall ensure that each passport issued by the United States after the effective date of this subsection—

(A) contains the index fingerprints of the person to whom such passport was issued; and

(B) complies with the additional biometric standard established by the International Civil Aviation Organization.

(2) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There are authorized to be appropriated a total of $1,000,000,000 for fiscal years 2005 and 2006 to carry out the provisions of paragraph (1).

(B) AVAILABILITY.—Any amounts appropriated pursuant to subparagraph (A) shall remain available until expended.

(3) EFFECTIVE DATE.—This subsection shall take effect on the date which is 1 year after the date of enactment of this Act.

(c) BIOMETRIC STANDARD FOR PASSPORTS ISSUED BY VISA WAIVER PROGRAM COUNTRIES.—

(1) IN GENERAL.—Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—

(A) in subsection (a)(3)(A), by striking ''satisfies the internationally accepted standard for machine readability.'' and inserting the following:

''(i) satisfies the internationally accepted standard for machine readability; and

''(ii) contains fingerprint biometric identifiers of the alien.''; and

(B) in subsection (c)(2)(B)(i), by striking ''satisfy the internationally accepted standard for machine readability.'' and inserting the following:

''(i) satisfy the internationally accepted standard for machine readability; and

''(ii) contain fingerprint biometric identifiers of such citizens.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date which is 1 year after the date on which the Secretary of State begins to issue passports in accordance with subsection (b)(1).

SA 3873. Mr. SESSIONS 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:

At the end of the bill, insert the following:

SEC. ___. RAILROAD CARRIERS AND MASS TRANSPORTATION PROTECTION ACT OF 2004.

(a) SHORT TITLE.—This section may be cited as the ''Railroad Carriers and Mass Transportation Protection Act of 2004''.

(b) IN GENERAL.—Chapter 97 of title 18, United States Code, is amended by striking sections 1992 through 1993 and inserting the following:

''§ 1992. Terrorist attacks and other violence against railroad carriers, passenger vessels, and against mass transportation systems on land, on water, or through the air

''(a) GENERAL PROHIBITIONS.—Whoever, in a circumstance described in subsection (c), knowingly—

''(1) wrecks, derails, sets fire to, or disables railroad on-track equipment, a passenger vessel, or a mass transportation vehicle;

''(2) with intent to endanger the safety of any passenger or employee of a railroad carrier, passenger vessel, or mass transportation provider, or with a reckless disregard for the safety of human life, and without previously obtaining the permission of the railroad carrier, mass transportation provider, or owner of the passenger vessel—

''(A) places any biological agent or toxin, destructive substance, or destructive device in, upon, or near railroad on-track equipment, a passenger vessel, or a mass transportation vehicle; or

''(B) releases a hazardous material or a biological agent or toxin on or near the property of a railroad carrier, owner of a passenger vessel, or mass transportation provider;

''(3) sets fire to, undermines, makes unworkable, unusable, or hazardous to work on or use, or places any biological agent or toxin, destructive substance, or destructive device in, upon, or near any—

''(A) tunnel, bridge, viaduct, trestle, track, electromagnetic guideway, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, without previously obtaining the permission of the railroad carrier, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck railroad on-track equipment;

''(B) garage, terminal, structure, track, electromagnetic guideway, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, without previously obtaining the permission of the mass transportation provider, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck a mass transportation vehicle used, operated, or employed by a mass transportation provider; or

''(C) structure, supply, or facility used in the operation of, or in the support of the operation of, a passenger vessel, without previously obtaining the permission of the owner of the passenger vessel, and with intent to, or knowing or having reason to know that such activity would likely disable or wreck a passenger vessel;

''(4) removes an appurtenance from, damages, or otherwise impairs the operation of a railroad signal system or mass transportation signal or dispatching system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal, without authorization from the rail carrier or mass transportation provider;

''(5) with intent to endanger the safety of any passenger or employee of a railroad carrier, owner of a passenger vessel, or mass transportation provider or with a reckless disregard for the safety of human life, interferes with, disables, or incapacitates any dispatcher, driver, captain, locomotive engineer, railroad conductor, or other person while the person is employed in dispatching, operating, or maintaining railroad on-track equipment, a passenger vessel, or a mass transportation vehicle;

''(6) engages in conduct, including the use of a dangerous weapon, with the intent to cause death or serious bodily injury to any person who is on the property of a railroad carrier, owner of a passenger vessel, or mass transportation provider that is used for railroad or mass transportation purposes;

''(7) conveys false information, knowing the information to be false, concerning an attempt or alleged attempt that was made, is being made, or is to be made, to engage in a violation of this subsection; or

''(8) attempts, threatens, or conspires to engage in any violation of any of paragraphs (1) through (7);

shall be fined under this title or imprisoned not more than 20 years, or both.

''(b) AGGRAVATED OFFENSE.—Whoever commits an offense under subsection (a) in a circumstance in which—

''(1) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying a passenger or employee at the time of the offense;

''(2) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying high-level radioactive waste or spent nuclear fuel at the time of the offense;

''(3) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying a hazardous material at the time of the offense that—

''(A) was required to be placarded under subpart F of part 172 of title 49, Code of Federal Regulations; and

''(B) is identified as class number 3, 4, 5, 6.1, or 8 and packing group I or packing group II, or class number 1, 2, or 7 under the hazardous materials table of section 172.101 of title 49, Code of Federal Regulations; or

''(4) the offense results in the death of any person;

shall be fined under this title or imprisoned for any term of years or life, or both. In the case of a violation described in paragraph (2), the term of imprisonment shall be not less than 30 years; and, in the case of a violation described in paragraph (4), the offender shall be fined under this title and imprisoned for life and be subject to the death penalty.

''(c) CRIMES AGAINST PUBLIC SAFETY OFFICER.—Whoever commits an offense under subsection (a) that results in death or serious bodily injury to a public safety officer while the public safety officer was engaged in the performance of official duties, or on account of the public safety officer's performance of official duties, shall be imprisoned for a term of not less than 20 years and, if death results, shall be imprisoned for life and be subject to the death penalty.

''(d) CIRCUMSTANCES REQUIRED FOR OFFENSE.—A circumstance referred to in subsection (a) is any of the following:

''(1) Any of the conduct required for the offense is, or, in the case of an attempt, threat, or conspiracy to engage in conduct, the conduct required for the completed offense would be, engaged in, on, against, or affecting a mass transportation provider, owner of a passenger vessel, or railroad carrier engaged in or affecting interstate or foreign commerce.

''(2) Any person travels or communicates across a State line in order to commit the offense, or transports materials across a State line in aid of the commission of the offense.

''(e) NONAPPLICABILITY.—Subsection (a) does not apply to the conduct with respect to a destructive substance or destructive device that is also classified under chapter 51 of title 49 as a hazardous material in commerce if the conduct—

''(1) complies with chapter 51 of title 49 and regulations, exemptions, approvals, and orders issued under that chapter, or

''(2) constitutes a violation, other than a criminal violation, of chapter 51 of title 49 or a regulation or order issued under that chapter.

''(f) DEFINITIONS.—In this section—

''(1) the term 'biological agent' has the meaning given to that term in section 178(1);

''(2) the term 'dangerous weapon' means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, including a pocket knife with a blade of less than 2½ inches in length and a box cutter;

''(3) the term 'destructive device' has the meaning given to that term in section 921(a)(4);

''(4) the term 'destructive substance' means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or material, or matter of a combustible, contaminative, corrosive, or explosive nature, except that the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes;

''(5) the term 'hazardous material' has the meaning given to that term in chapter 51 of title 49;

''(6) the term 'high-level radioactive waste' has the meaning given to that term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12));

''(7) the term 'mass transportation' has the meaning given to that term in section 5302(a)(7) of title 49, except that the term includes school bus, charter, and sightseeing transportation;

''(8) the term 'on-track equipment' means a carriage or other contrivance that runs on rails or electromagnetic guideways;

''(9) the term 'public safety officer' has the meaning given such term in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b);

''(10) the term 'railroad on-track equipment' means a train, locomotive, tender, motor unit, freight or passenger car, or other on-track equipment used, operated, or employed by a railroad carrier;

''(11) the term 'railroad' has the meaning given to that term in chapter 201 of title 49;

''(12) the term 'railroad carrier' has the meaning given to that term in chapter 201 of title 49;

''(13) the term 'serious bodily injury' has the meaning given to that term in section 1365;

''(14) the term 'spent nuclear fuel' has the meaning given to that term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23));

''(15) the term 'State' has the meaning given to that term in section 2266;

''(16) the term 'toxin' has the meaning given to that term in section 178(2);

''(17) the term 'vehicle' means any carriage or other contrivance used, or capable of being used, as a means of transportation on land, on water, or through the air; and

''(18) the term 'passenger vessel' has the meaning given that term in section 2101(22) of title 46, United States Code, and includes a small passenger vessel, as that term is defined under section 2101(35) of that title.''.

(c) CONFORMING AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 97 of title 18, United States Code, is amended—

(A) by striking ''**RAILROADS**'' in the chapter heading and inserting ''**RAILROAD CARRIERS AND MASS TRANSPORTATION SYSTEMS ON LAND, ON WATER, OR THROUGH THE AIR**'';

(B) by striking the items relating to sections 1992 and 1993; and

(C) by inserting after the item relating to section 1991 the following:

''1992. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air.''.

(2) TABLE OF CHAPTERS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item relating to chapter 97 and inserting the following:

''97. Railroad carriers and mass transportation systems on land, on water, or through the air ..... 1991''.

(3) CONFORMING AMENDMENTS.—Title 18, United States Code, is amended—

(A) in section 2332b(g)(5)(B)(i), by striking ''1992 (relating to wrecking trains), 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems),'' and inserting ''1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),'';

(B) in section 2339A, by striking ''1993,''; and

(C) in section 2516(1)(c) by striking ''1992 (relating to wrecking trains),'' and inserting ''1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),''.

SA 3874. Mr. WARNER 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 211, after line 22, add the following:

SEC. 337. RETENTION OF CURRENT PROGRAMS, PROJECTS, AND ACTIVITIES WITHIN JOINT MILITARY INTELLIGENCE PROGRAM AND TACTICAL INTELLIGENCE AND RELATED ACTIVITIES PROGRAMS PENDING REVIEW.

(a) RETENTION WITHIN CURRENT PROGRAMS.—Notwithstanding any other provision of law, all programs, projects, and activities contained within the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities program as of the date of the enactment of this Act shall remain within such programs until a thorough review of such programs is completed.

(b) REMOVAL FROM CURRENT PROGRAMS.—A program, project, or activity referred to in subsection (a) may be removed from the Joint Military Intelligence Program or the Tactical Intelligence and Related Activities programs only if agreed to by the National Intelligence Director and the Secretary of Defense.

SA 3875. Mr. WARNER 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 6, strike line 24 and all that follows through page 7, line 2, and insert the following:

(ii) includes all programs, projects, and activities of the National Foreign Intelligence Program as of the date of the enactment of this Act, including the Central Intelligence Agency, the

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SA 3876. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) 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 213, insert after line 8, the following:

SEC. 352. PRESERVATION OF AUTHORITY AND ACCOUNTABILITY.

Nothing in this Act, or the amendments made by this Act, shall be construed to impair and otherwise affect the authority of—

(1) the Director of the Office of Management and Budget; or

(2) the principal officers of the executive departments as heads of their respective departments, including, but not limited to—

(A) the authority of the Secretary of State under section 199 of the Revised Statutes (22 U.S.C. 2651) and the State Department Basic Authorities Act;

(B) the authority of the Secretary of Energy under title II of the Department of Energy Organization Act (42 U.S.C. 7131);

(C) the authority of the Secretary of Homeland Security under section 102(a) of the Homeland Security Act of 2002 (6 U.S.C. 112(a));

(D) the authority of the Secretary of Defense under sections 113(b) and 162(b) of title 10, United States Code;

(E) the authority of the Secretary of the Treasury under section 301(b) of title 31, United States Code;

(F) the authority of the Attorney General under section 503 of title 28, United States Code; and

(G) the authority of the heads of executive departments under section 301 of title 5, United States Code.

On page 213, line 9, strike ''**352.**'' and insert ''**353.**''.

SA 3877. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) 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 40, strike line 18 and all that follows through page 41, line 4, and insert the following:

(b) CONCURRENCE OF NID IN CERTAIN APPOINTMENTS RECOMMENDED BY SECRETARY OF DEFENSE.—(1) In the event of a vacancy in a position referred to in paragraph (2), the Secretary of Defense shall obtain the concurrence of the National Intelligence Director before recommending to the President an individual for nomination to fill such vacancy. If the Director does not concur in the recommendation, the Secretary may make the recommendation to the President without the concurrence of the Director, but shall include in the recommendation a statement that the Director does not concur in the recommendation.

On page 41, line 12, strike ''CONCURRENCE OF'' and insert ''CONSULTATION WITH''.

On page 41, beginning on line 15, strike ''obtain the concurrence of'' and insert ''consult with''.

SA 3878. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) 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 7, line 21, insert after ''Program'' the following: ''(other than the Directorate for Intelligence (J2) of the Joint Staff)''.

SA 3879. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) 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 8, between lines 6 and 7, insert the following:

(8) The term ''personal'', except as otherwise expressly provided, means civilian personnel of the United States Government.

SA 3880. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) 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 15, line 5, strike ''consultation'' and insert ''coordination''.

SA 3881. Mr. KYL 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:

At the end of the bill, insert the following:

TITLE ___—SCOTT CAMPBELL, STEPHANIE ROPER, WENDY PRESTON, LOARNA GILLIS, AND NILA LYNNE CRIME VICTIMS' RIGHTS ACT

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims' Rights Act''.

SEC. ___02. CRIME VICTIMS' RIGHTS.

(a) AMENDMENT TO TITLE 18.—Part II of title 18, United States Code, is amended by adding at the end the following:

''CHAPTER 237—CRIME VICTIMS' RIGHTS

''Sec.
''3771. Crime victims' rights.

''§ 3771. Crime victims' rights

''(a) RIGHTS OF CRIME VICTIMS.—A crime victim has the following rights:

''(1) The right to be reasonably protected from the accused.

''(2) The right to reasonable, accurate, and timely notice of any public proceeding involving the crime or of any release or escape of the accused.

''(3) The right not to be excluded from any such public proceeding.

''(4) The right to be reasonably heard at any public proceeding involving release, plea, or sentencing.

''(5) The right to confer with the attorney for the Government in the case.

''(6) The right to full and timely restitution as provided in law.

''(7) The right to proceedings free from unreasonable delay.

''(8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

''(b) RIGHTS AFFORDED.—In any court proceeding involving an offense against a crime victim, the court shall ensure that the crime victim is afforded the rights described in subsection (a). The reasons for any decision denying relief under this chapter shall be clearly stated on the record.

''(c) BEST EFFORTS TO ACCORD RIGHTS.—

''(1) GOVERNMENT.—Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection (a).

''(2) CONFLICT.—In the event of any material conflict of interest between the prosecutor and the crime victim, the prosecutor shall advise the crime victim of the conflict and take reasonable steps to direct the crime victim to the appropriate legal referral, legal assistance, or legal aid agency.

''(3) NOTICE.—Notice of release otherwise required pursuant to this chapter shall not be given if such notice may endanger the safety of any person.

''(d) ENFORCEMENT AND LIMITATIONS.—

''(1) RIGHTS.—The crime victim, the crime victim's lawful representative, and the attorney for the Government may assert the rights established in this chapter. A person accused of the crime may not obtain any form of relief under this chapter.

''(2) MULTIPLE CRIME VICTIMS.—In a case where the court finds that the number of crime victims makes it impracticable to accord all of the crime victims the rights contained in this chapter, the court shall fashion a procedure to give effect to this chapter.

''(3) WRIT OF MANDAMUS.—If a Federal court denies any right of a crime victim under this chapter or under the Federal Rules of Criminal Procedure, the Government or the crime victim may apply for a writ of mandamus to the appropriate court of appeals. The court of appeals shall take up and decide such application forthwith and shall order such relief as may be necessary to protect the crime victim's ability to exercise the rights.

''(4) ERROR.—In any appeal in a criminal case, the Government may assert as error the district court's denial of any crime victim's right in the proceeding to which the appeal relates.

''(5) NEW TRIAL.—In no case shall a failure to afford a right under this chapter provide grounds for a new trial.

''(6) NO CAUSE OF ACTION.—Nothing in this chapter shall be construed to authorize a cause of action for damages.

''(e) CRIME VICTIM.—In this chapter, the term 'crime victim' means a person directly and proximately harmed as a result of the commission of an offense listed in 2332b(g)(5)(B) of this title.

''(f) PROCEDURES TO PROMOTE COMPLIANCE.—

''(1) REGULATIONS.—Not later than 1 year after the date of enactment of this chapter, the Attorney General of the United States shall promulgate regulations to enforce the rights of crime victims and to ensure compliance by responsible officials with the obligations described in law respecting crime victims.

''(2) CONTENTS.—The regulations promulgated under paragraph (1) shall—

''(A) establish an administrative authority within the Department of Justice to receive and investigate complaints relating to the provision or violation of the rights of a crime victim;

''(B) require a course of training for employees and offices of the Department of Justice that fail to comply with provisions of Federal law pertaining to the treatment of crime victims, and otherwise assist such employees and offices in responding more effectively to the needs of crime victims;

''(C) contain disciplinary sanctions, including suspension or termination from employment, for employees of the Department of Justice who willfully or wantonly fail to comply with provisions of Federal law pertaining to the treatment of crime victims; and

''(D) provide that the Attorney General, or the designee of the Attorney General, shall be the final arbiter of the complaint, and that there shall be no judicial review of the final decision of the Attorney General by a complainant.''.

(b) TABLE OF CHAPTERS.—The table of chapters for part II of title 18, United States Code, is amended by inserting at the end the following:

''237. Crime victims' rights ..... 3771''.

SEC. ___03. INCREASED RESOURCES FOR ENFORCEMENT OF CRIME VICTIMS' RIGHTS.

(a) CRIME VICTIMS LEGAL ASSISTANCE GRANTS.—The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404C the following:

''SEC. 1404D. CRIME VICTIMS LEGAL ASSISTANCE GRANTS.

''(a) IN GENERAL.—The Director may make grants as provided in section 1404(c)(1)(A) to State, tribal, and local prosecutors' offices, law enforcement agencies, courts, jails, and correctional institutions, and to qualified public and private entities, to develop, establish, and maintain programs for the enforcement of crime victims' rights as provided in law.

''(b) FALSE CLAIMS ACT.—Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the 'False Claims Act'), may be used for grants under this section, subject to appropriation.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds made available under section 1402(d) of the Victims of Crime Act of 1984, there are authorized to be appropriated to carry out this Act—

(1) $2,000,000 for fiscal year 2005 and $5,000,000 for each of fiscal years 2006, 2007, 2008, and 2009 to United States Attorneys Offices for Victim/Witnesses Assistance Programs;

(2) $2,000,000 for fiscal year 2005 and $5,000,000 in each of the fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice for enhancement of the Victim Notification System;

(3) $300,000 in fiscal year 2005 and $500,000 for each of the fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice for staff to administer the appropriation for the support of the National Crime Victim Law Institute or other organizations as designated under paragraph (4);

(4) $7,000,000 for fiscal year 2005 and $11,000,000 for each of the fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice, for the support of—

(A) the National Crime Victim Law Institute and the establishment and operation of the Institute's programs to provide counsel for victims in criminal cases for the enforcement of crime victims' rights in Federal jurisdictions, and in States and tribal governments that have laws substantially equivalent to the provisions of chapter 237 of title 18, United States Code; or

(B) other organizations substantially similar to that organization as determined by the Director of the Office for Victims of Crime.

(c) INCREASED RESOURCES TO DEVELOP STATE-OF-THE-ART SYSTEMS FOR NOTIFYING CRIME VICTIMS OF IMPORTANT DATES AND DEVELOPMENTS.—The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404D the following:

''SEC. 1404E. CRIME VICTIMS NOTIFICATION GRANTS.

''(a) IN GENERAL.—The Director may make grants as provided in section 1404(c)(1)(A) to State, tribal, and local prosecutors' offices, law enforcement agencies, courts, jails, and correctional institutions, and to qualified public or private entities, to develop and implement state-of-the-art systems for notifying victims of crime of important dates and developments relating to the criminal proceedings at issue in a timely and efficient manner, provided that the jurisdiction has laws substantially equivalent to the provisions of chapter 237 of title 18, United States Code.

''(b) INTEGRATION OF SYSTEMS.—Systems developed and implemented under this section may be integrated with existing case management systems operated by the recipient of the grant.

''(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds made available under section 1402(d), there are authorized to be appropriated to carry out this section—

''(1) $5,000,000 for fiscal year 2005; and

''(2) $5,000,000 for each of the fiscal years 2006, 2007, 2008, and 2009.

''(d) FALSE CLAIMS ACT.—Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the 'False Claims Act'), may be used for grants under this section, subject to appropriation.''.

SEC. ___04. REPORTS.

(a) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Not later than 1 year after the date of enactment of this Act and annually thereafter, the Administrative Office of the United States Courts, for each Federal court, shall report to Congress the number of times that a right established in chapter 237 of title 18, United States Code, is asserted in a criminal case and the relief requested is denied and, with respect to each such denial, the reason for such denial, as well as the number of times a mandamus action is brought pursuant to chapter 237 of title 18, and the result reached.

(b) GENERAL ACCOUNTING OFFICE.—

(1) STUDY.—The Comptroller General shall conduct a study that evaluates the effect and efficacy of the implementation of the amendments made by this Act on the treatment of crime victims in the Federal system.

(2) REPORT.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall prepare and submit to the appropriate committees a report containing the results of the study conducted under paragraph (1).

SA 3882. Mr. STEVENS 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 60, strike line 5 and all that follows through page 77, line 18, and insert the following:

SEC. 141. INSPECTOR GENERAL OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) OFFICE OF INSPECTOR GENERAL OF NATIONAL INTELLIGENCE AUTHORITY.—There is within the National Intelligence Authority an Office of the Inspector General of the National Intelligence Authority.

(b) PURPOSE.—The purpose of the Office of the Inspector General of the National Intelligence Authority is to—

(1) create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independently investigations, inspections, and audits relating to—

(A) the programs and operations of the National Intelligence Authority;

(B) the relationships among the elements of the intelligence community within the National Intelligence Program; and

(C) the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community;

(2) recommend policies designed—

(A) to promote economy, efficiency, and effectiveness in the administration of such programs and operations, and in such relationships; and

(B) to prevent and detect fraud and abuse in such programs, operations, and relationships;

(3) provide a means for keeping the National Intelligence Director fully and currently informed about—

(A) problems and deficiencies relating to the administration of such programs and operations, and to such relationships; and

(B) the necessity for, and the progress of, corrective actions; and

(4) in the manner prescribed by this section, ensure that the congressional intelligence committees are kept similarly informed of—

(A) significant problems and deficiencies relating to the administration of such programs and operations, and to such relationships; and

(B) the necessity for, and the progress of, corrective actions.

(c) INSPECTOR GENERAL OF NATIONAL INTELLIGENCE AUTHORITY.—(1) There is an Inspector General of the National Intelligence Authority, who shall be the head of the Office of the Inspector General of the National Intelligence Authority, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Any individual nominated for appointment as Inspector General of the National Intelligence Authority shall have significant prior experience in the fields of intelligence and national security.

(d) DUTIES AND RESPONSIBILITIES.—(1) The Inspector General of the National Intelligence Authority shall have the duties and responsibilities set forth in applicable provisions of the Inspector General Act of 1978 (5 U.S.C. App.).

(2) In addition to the duties and responsibilities provided for in paragraph (1), the Inspector General shall—

(1) provide policy direction for, and plan, conduct, supervise, and coordinate independently, the investigations, inspections, and audits relating to the programs and operations of the National Intelligence Authority, the relationships among the elements of the intelligence community within the National Intelligence Program, and the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community to ensure they are conducted efficiently and in accordance with applicable law and regulations;

(2) keep the National Intelligence Director fully and currently informed concerning violations of law and regulations, violations of civil liberties and privacy, and fraud and other serious problems, abuses, and deficiencies that may occur in such programs and operations, and in such relationships, and to report the progress made in implementing corrective action;

(3) take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Inspector General, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appropriate to minimize the disclosure of intelligence sources and methods described in such reports; and

(4) in the execution of the duties and responsibilities under this section, comply with generally accepted government auditing standards.

(e) AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978.—(1) The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) by redesignating section 8J as section 8K; and

(B) by inserting after section 8I the following new section:

''SPECIAL PROVISIONS CONCERNING THE NATIONAL INTELLIGENCE AUTHORITY

''SEC. 8J. (a) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the National Intelligence Authority shall be under the authority, direction, and control of the National Intelligence Director with respect to audits or investigations, or the issuance of subpoenas, which require access to information concerning intelligence or counterintelligence matters the disclosure of which would constitute a serious threat to national security. With respect to such information, the Director may prohibit the Inspector General from initiating, carrying out, or completing any investigation, inspection, or audit if the Director determines that such prohibition is necessary to preserve the vital national security interests of the United States.

''(b) If the National Intelligence Director exercises the authority under subsection (a), the Director shall submit to the congressional intelligence committees an appropriately classified statement of the reasons for the exercise of such authority within seven days.

''(c) The National Intelligence Director shall advise the Inspector General of the National Intelligence Authority at the time a report under subsection (a) is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of such report.

''(d) The Inspector General of the National Intelligence Authority may submit to the congressional intelligence committees any comments on a report of which the Inspector General has notice under subsection (c) that the Inspector General considers appropriate.

''(e) In this section, the term 'congressional intelligence committees' means—

''(1) the Select Committee on Intelligence of the Senate; and

''(2) the Permanent Select Committee on Intelligence of the House of Representatives.''.

(2) Section 8H(a)(1)(A) of that Act is amended by inserting ''National Intelligence Authority,'' before ''Defense Intelligence Agency''.

(3) Section 11 of that Act is amended—

(1) in paragraph (1), by inserting ''the National Intelligence Director;'' after ''the Office of Personnel Management;''; and

(2) in paragraph (2), by inserting ''the National Intelligence Authority,'' after ''the Office of Personnel Management,''.

SA 3883. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3705 by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) 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, strike line 20 and all that follows through page 11, line 7, and insert the following:

''(d) TRAINING AND EXERCISES OFFICE WITHIN THE OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS.—

''(1) IN GENERAL.—The Secretary shall create within the Office for State and Local Government Coordination and Preparedness an internal office that shall be the proponent for all national domestic preparedness, training, education, and exercises within the Office for Domestic Preparedness.

''(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 for State and Local Government Coordination and Preparedness.''.

SA 3884. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) 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 17, strike the semicolon and all that follows through page 11, line 7, and insert a period.

SA 3885. Mr. BIDEN 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:

At the end, insert the following new title:

TITLE IV—INTERNATIONAL BROADCASTING ACTIVITIES

SEC. 401. SHORT TITLE.

This title may be cited as the ''Initiative 911 Act''.

SEC. 402. FINDINGS.

Congress makes the following findings:

(1) Open communication of information and ideas among peoples of the world contributes to international peace and stability, and that the promotion of such communication is important to the national security of the United States.

(2) The United States needs to improve its communication of information and ideas to people in foreign countries, particularly in countries with significant Muslim populations.

(3) A significant expansion of United States international broadcasting would provide a cost-effective means of improving communication with countries with significant Muslim populations by providing news, information, and analysis, as well as cultural programming, through both radio and television broadcasts.

(4) The report of the National Commission on Terrorist Attacks Upon the United States stated that, ''Recognizing that Arab and Muslim audiences rely on satellite television and radio, the government has begun some promising initiatives in television and radio broadcasting to the Arab world, Iran, and Afghanistan. These efforts are beginning to reach large audiences. The Broadcasting Board of Governors has asked for much larger resources. It should get them.''.

SEC. 403. SPECIAL AUTHORITY FOR SURGE CAPACITY.

The United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.) is amended by adding at the end the following new section:

''SEC. 316. SPECIAL AUTHORITY FOR SURGE CAPACITY.

''(a) EMERGENCY AUTHORITY.—

''(1) IN GENERAL.—Whenever the President determines it to be important to the national interests of the United States and so certifies to the appropriate congressional committees, the President, on such terms and conditions as the President may determine, is authorized to direct any department, agency, or other entity of the United States to furnish the Broadcasting Board of Governors with such assistance as may be necessary to provide international broadcasting activities of the United States with a surge capacity to support United States foreign policy objectives during a crisis abroad.

''(2) SUPERSEDES EXISTING LAW.—The authority of paragraph (1) supersedes any other provision of law.

''(3) SURGE CAPACITY DEFINED.—In this subsection, the term 'surge capacity' means the financial and technical resources necessary to carry out broadcasting activities in a geographical area during a crisis.

''(b) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—Effective October 1, 2004, there are authorized to be appropriated to the President such amounts as may be necessary for the President to carry out this section, except that no such amount may be appropriated which, when added to amounts previously appropriated for such purpose but not yet obligated, would cause such amounts to exceed $25,000,000.

''(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations in this subsection are authorized to remain available until expended.

''(3) DESIGNATION OF APPROPRIATIONS.—Amounts appropriated pursuant to the authorization of appropriations in this subsection may be referred to as the 'United States International Broadcasting Surge Capacity Fund'.''.

SEC. 404. REPORT.

In each annual report submitted under section 305(a)(9) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6204(a)(9)) after the date of enactment of this title, the Broadcasting Board of Governors shall give special attention to reporting on the activities carried out under this title.

SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to amounts otherwise available for such purposes, the following amounts are authorized to be appropriated to carry out United States Government broadcasting activities under the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.), the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.), the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted in division of G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 107–277), and this title, and to carry out other authorities in law consistent with such purposes:

(1) INTERNATIONAL BROADCASTING OPERATIONS.—For ''International Broadcasting Operations'', $497,000,000 for the fiscal year 2005.

(2) BROADCASTING CAPITAL IMPROVEMENTS.—For ''Broadcasting Capital Improvements'', $70,000,000 for the fiscal year 2005.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations in this section are authorized to remain available until expended.

SEC. 406. EFFECTIVE DATE.

Notwithstanding section 341 or any other provision of this Act, this title shall become effective on the date of enactment of this Act.

SA 3886. Mr. FEINGOLD 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:

At the appropriate place, insert the following:

SEC. ___. TERRORIST SCREENING CENTER.

(a) CRITERIA FOR WATCHLIST.—The Secretary of Homeland Security, in consultation with the Director of the Federal Bureau of Investigation, shall define and report to Congress the criteria for placing individuals on the Terrorist Screening Center consolidated screening watch list, including reliability thresholds, minimum standards for identifying information, specific designations of the certainty and level of threat the individual poses, and specific instructions about the consequences that apply to the individual if located. To the greatest extent consistent with the protection of classified information and applicable law, the report shall be in unclassified form and available to the public, with a classified annex where necessary.

(b) SAFEGUARDS AGAINST ERRONEOUS LISTINGS.—The Secretary of Homeland Security, in consultation with the Director of the Federal Bureau of Investigation, shall establish a process for individuals to challenge ''Automatic Selectee'' or ''No Fly'' designations on the consolidated screening watch list and have their names removed from such lists, if erroneously present.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Privacy and Civil Liberties Oversight Board shall submit a report assessing the impact of the ''No Fly'' and ''Automatic Selectee'' lists on privacy and civil liberties to the Committee on the Judiciary, the Committee on Governmental Affairs, and the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on the Judiciary, the Committee on Government Reform, and the Committee on Transportation and Infrastructure of the House of Representatives. The report shall include any recommendations for practices, procedures, regulations, or legislation to eliminate or minimize adverse effects of such lists on privacy, discrimination, due process and other civil liberties, as well as the implications of applying those lists to other modes of transportation. The Comptroller General of the United States shall cooperate with the Privacy and Civil Liberties Board in the preparation of the report. To the greatest extent consistent with the protection of classified information and applicable law, the report shall be in unclassified form and available to the public, with a classified annex where necessary.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall become effective on the date of enactment of this Act.

SA 3887. Mr. SCHUMER 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; as follows:

At the appropriate place, insert the following:

SEC. ___. AMENDMENTS TO FISA.

(a) TREATMENT OF NON-UNITED STATES PERSONS WHO ENGAGE IN INTERNATIONAL TERRORISM WITHOUT AFFILIATION WITH INTERNATIONAL TERRORIST GROUPS.—

(1) IN GENERAL.—Section 101(b)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)(1)) is amended by adding at the end the following new subparagraph:

''(C) engages in international terrorism or activities in preparation therefor; or''.

(2) SUNSET.—The amendment made by paragraph (1) shall expire on the date that is 5 years after the date of enactment of this section.

(b) ADDITIONAL ANNUAL REPORTING REQUIREMENTS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—

(1) ADDITIONAL REPORTING REQUIREMENTS.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(A) by redesignating—

(i) title VI as title VII; and

(ii) section 601 as section 701; and

(B) by inserting after title V the following new title VI:

''TITLE VI—REPORTING REQUIREMENT

''ANNUAL REPORT OF THE ATTORNEY GENERAL

''SEC. 601. (a) In addition to the reports required by sections 107, 108, 306, 406, and 502 in April each year, the Attorney General shall submit to the appropriate committees of Congress each year a report setting forth with respect to the one-year period ending on the date of such report—

''(1) the aggregate number of non-United States persons targeted for orders issued under this Act, including a break-down of those targeted for—

''(A) electronic surveillance under section 105;

''(B) physical searches under section 304;

''(C) pen registers under section 402; and

''(D) access to records under section 501;

''(2) the number of individuals covered by an order issued under this Act who were determined pursuant to activities authorized by this Act to have acted wholly alone in the activities covered by such order;

''(3) the number of times that the Attorney General has authorized that information obtained under this Act may be used in a criminal proceeding or any information derived therefrom may be used in a criminal proceeding; and

''(4) in a manner consistent with the protection of the national security of the United States—

''(A) the portions of the documents and applications filed with the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted;

''(B) the portions of the opinions and orders of the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted.

''(b) The first report under this section shall be submitted not later than six months after the date of the enactment of this Act. Subsequent reports under this section shall be submitted annually thereafter.

''(c) In this section, the term 'appropriate committees of Congress' means—

''(1) the Select Committee on Intelligence and the Committee on the Judiciary of the Senate; and

''(2) the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.''.

(2) CLERICAL AMENDMENT.—The table of contents for that Act is amended by striking the items relating to title VI and inserting the following new items:

''TITLE VI—REPORTING REQUIREMENT

''Sec. 601. Annual report of the Attorney General.

''TITLE VII—EFFECTIVE DATE

''Sec. 701. Effective date.''.

SA 3888. Mr. SCHUMER 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; as follows:

At the appropriate place, insert the following:

SEC. ___. U.S. HOMELAND SECURITY SIGNAL CORPS.

(a) SHORT TITLE.—This section may be cited as the ''U.S. Homeland Security Signal Act of 2004''.

(b) HOMELAND SECURITY SIGNAL CORPS.—

(1) IN GENERAL.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended by adding at the end the following:

''SEC. 510. HOMELAND SECURITY SIGNAL CORPS.

''(a) ESTABLISHMENT.—There is established, within the Directorate of Emergency Preparedness and Response, a Homeland Security Signal Corps (referred to in this section as the 'Signal Corps').

''(b) PERSONNEL.—The Signal Corps shall be comprised of specially trained police officers, firefighters, emergency medical technicians, and other emergency personnel.

''(c) RESPONSIBILITIES.—The Signal Corps shall—

''(1) ensure that first responders can communicate with one another, mobile command centers, headquarters, and the public at disaster sites or in the event of a terrorist attack or a national crisis;

''(2) provide sufficient training and equipment for fire, police, and medical units to enable those units to deal with all threats and contingencies in any environment; and

''(3) secure joint-use equipment, such as telecommunications trucks, that can access surviving telephone land lines to supplement communications access.

''(d) NATIONAL SIGNAL CORPS STANDARDS.—The Signal Corps shall establish a set of standard operating procedures, to be followed by signal corps throughout the United States, that will ensure that first responders from each Federal, State, and local agency have the methods and means to communicate with, or substitute for, first responders from other agencies in the event of a multi-state terrorist attack or a national crisis.

''(e) DEMONSTRATION SIGNAL CORPS.—

''(1) IN GENERAL.—The Secretary shall establish demonstration signal corps in New York City, and in the District of Columbia, consisting of specially trained law enforcement and other personnel. The New York City Signal Demonstration Corps shall consist of personnel from the New York Police Department, the Fire Department of New York, the Port Authority of New York and New Jersey, and other appropriate Federal, State, regional, or local personnel. The District of Columbia Signal Corps shall consist of specially trained personnel from all appropriate Federal, State, regional, and local law enforcement personnel in Washington, D.C., including from the Metropolitan Police Department.

''(2) RESPONSIBILITIES.—The demonstration signal corps established under this subsection shall—

''(A) ensure that 'best of breed' military communications technology is identified and secured for first responders;

''(B) ensure communications connectivity between the New York Police Department, the Fire Department of New York, and other appropriate Federal, State, regional, and local law enforcement personnel in the metropolitan New York City area;

''(C) identify the means of communication that work best in New York's tunnels, skyscrapers, and subways to maintain communications redundancy;

''(D) ensure communications connectivity between the Capitol Police, the Metropolitan Police Department, and other appropriate Federal, State, regional, and local law enforcement personnel in the metropolitan Washington, D.C. area;

''(E) identify the means of communication that work best in Washington, D.C.'s office buildings, tunnels, and subway system to maintain communications redundancy; and

''(F) serve as models for other major metropolitan areas across the Nation.

''(3) TEAM CAPTAINS.—The mayor of New York City and the District of Columbia shall appoint team captains to command communications companies drawn from the personnel described in paragraph (1).

''(4) TECHNICAL ASSISTANCE.—The Signal Corps Headquarters, located in Fort Monmouth, New Jersey, shall provide technical assistance to the New York City Demonstration Signal Corps.

''(f) REPORTING REQUIREMENT.—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Secretary shall submit a report, to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives, which outlines the progress of the Signal Corps in the preceding year and describes any problems, issues, or other impediments to effective communication between first responders in the event of a terrorist attack or a national crisis.

''(g) AUTHORIZATION OF APPROPRIATIONS.—

''(1) DEMONSTRATION SIGNAL CORPS.—There are authorized to be appropriated $50,000,000 for fiscal year 2005 to carry out subsection (e).

''(2) FISCAL YEARS 2006 THROUGH 2009.—There are authorized to be appropriated $100,000,000 for each of the fiscal years 2006 through 2008—

''(A) to create signal corps in high terrorism threat areas throughout the United States; and

''(B) to carry out the mission of the Signal Corps to assist Federal, State, and local law enforcement agencies to effectively communicate with each other during a terrorism event or a national crisis.''.

(2) TECHNICAL AMENDMENT.—Section 1(b) of the Homeland Security Act of 2002 (Public Law 107–296) is amended by inserting after the item relating to section 509 the following:

''Sec. 510. Homeland Security Signal Corps.''.

SA 3889. Mr. SCHUMER 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; as follows:

At the appropriate place, insert the following new section:

SEC. ___. COMMISSION ON THE UNITED STATES-SAUDI ARABIA RELATIONSHIP.

(a) FINDINGS.—Congress makes the following findings:

(1) Despite improvements in counterterrorism cooperation between the Governments of the United States and Saudi Arabia following the terrorist attacks in Riyadh, Saudi Arabia on May 12, 2003, the relationship between the United States and Saudi Arabia continues to be problematic in regard to combating Islamic extremism.

(2) The Government of Saudi Arabia has not always responded promptly and fully to

United States requests for assistance in the global war on Islamist terrorism. Examples of this lack of cooperation have included an unwillingness to provide the United States Government with access to individuals wanted for questioning in relation to terrorist acts and to assist in investigations of terrorist activities.

(3) The state religion of Saudi Arabia, a militant and exclusionary form of Islam known as Wahhabism, preaches violence against nonbelievers or infidels and serves as the religious basis for Osama Bin Laden and al Qaeda. Through support for madrassas, mosques, cultural centers, and other entities Saudi Arabia has actively supported the spread of this religious sect.

(4) The Secretary of State designated Saudi Arabia 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 systematic, ongoing, and egregious violations of religious freedom.

(5) The Department of State's International Religious Freedom Report for 2004 concluded that religious freedom does not exist in Saudi Arabia.

(6) The Ambassador-at-large for International Religious Freedom expressed concern about Saudi Arabia's export of religious extremism and intolerance to other countries where religious freedom for Muslims is respected.

(7) Historically, the Government of Saudi Arabia has allowed financiers of terrorism to operate within its borders.

(8) The Government of Saudi Arabia stated in February 2004 that it would establish a national commission to combat terrorist financing within Saudi Arabia, however, it has not fulfilled that promise.

(9) There have been no reports of the Government of Saudi Arabia pursuing the arrest, trial, or punishment of individuals who have provided financial support for terrorist activities. The laws of Saudi Arabia to combat terrorist financing have not been fully implemented.

(b) COMMISSION ON THE UNITED STATES-SAUDI ARABIA RELATIONSHIP.—

(1) ESTABLISHMENT.—There is established, within the legislative branch, the National Commission on the United States-Saudi Arabia Relationship (in this section referred to as the ''Commission'').

(2) PURPOSES.—The purposes of the Commission are to investigate, evaluate, and report on—

(A) the current status and activities of diplomatic relations between the Government of the United States and the Government of Saudi Arabia;

(B) the degree of cooperation exhibited by the Government of Saudi Arabia toward the Government of the United States in relation to intelligence, security cooperation, and the fight against Islamist terrorism;

(C) the status of the support provided by the Government of Saudi Arabia to promote the dissemination of Wahabbism; and

(D) the efforts of the Government of Saudi Arabia to enact domestic measures to curtail terrorist financing.

(3) AUTHORITY.—The Commission is authorized to carry out purposes described in paragraph (2).

(c) COMPOSITION OF COMMISSION.—The Commission shall be composed of 10 members, as follows:

(1) Two members appointed by the President, one of whom the President shall designate as the chairman of the Commission.

(2) Two members appointed by the Speaker of the House of Representatives.

(3) Two members appointed by the minority leader of the House of Representatives.

(4) Two members appointed by the majority leader of the Senate.

(5) Two members appointed by the minority leader of the Senate.

(d) REPORT.—Not later that 270 days after the date of the enactment of this Act, the Commission shall submit to the President and Congress a report on the relationship between the United States and Saudi Arabia. The report shall include the recommendations of the Commission to—

(1) increase the transparency of diplomatic relations between the Government of the United States and the Government of Saudi Arabia;

(2) improve cooperation between Government of the United States and the Government of Saudi Arabia in efforts to share intelligence information related to the war on terror;

(3) curtail the support and dissemination of Wahabbism by the Government of Saudi Arabia;

(4) enhance the efforts of the Government of Saudi Arabia to combat terrorist financing;

(5) create a foreign policy strategy for the United States to improve cooperation with the Government of Saudi Arabia in the war on terror, including any recommendations regarding the use of sanctions or other diplomatic measures;

(6) curtail the support or toleration of violations of religious freedom by the Government of Saudi Arabia; and

(7) encourage the Government of Saudi Arabia to improve the human rights conditions in Saudi Arabia that have been identified as poor by the Department of State.

(e) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of the enactment of this Act.

SA 3890. Mr. SCHUMER 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; as follows:

At the end, add the following new title:

TITLE IV—SECURITY OF TRUCKS TRANSPORTING HAZARDOUS MATERIALS

SEC. 401. IMPROVEMENTS TO SECURITY OF HAZARDOUS MATERIALS TRANSPORTED BY TRUCK.

(a) PLAN FOR IMPROVING SECURITY OF HAZARDOUS MATERIALS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall develop a plan for improving the security of hazardous materials transported by truck.

(2) CONTENT.—The plan under paragraph (1) shall include—

(A) a plan for tracking such hazardous materials;

(B) a strategy for preventing hijackings of trucks carrying such materials; and

(C) a proposed mechanism for recovering lost or stolen trucks carrying such materials.

(b) INCREASED INSPECTION OF TRUCKS.—

(1) IN GENERAL.—The Secretary of Homeland Security shall require that the number of trucks entering the United States that are manually searched and screened in fiscal year 2005 is at least twice the number of trucks manually searched and screened in fiscal year 2004.

(2) WAIT TIMES AT INSPECTIONS.—In carrying out this section, the Secretary shall ensure that the average wait time for trucks entering the United States does not increase.

(c) BACKGROUND CHECKS.—Beginning not later than 3 years after the date of the enactment of this Act, the Secretary of Homeland Security shall require background checks of all truck drivers with certifications to transport hazardous materials.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of enactment of this Act.

SA 3891. Mr. SCHUMER 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; as follows:

At the end, add the following new title:

TITLE IV—RAIL SECURITY

SEC. 401. IMPROVEMENTS TO RAIL SECURITY.

(a) PROTECTION OF PASSENGER AREAS IN RAIL STATIONS.—The Secretary of Homeland Security shall require that, not later than 2 years after the date of the enactment of this Act, each of the 30 rail stations in the United States with the highest daily rate of passenger traffic be equipped with a sufficient number of wall-mounted and ceiling-mounted radiological, biological, chemical, and explosive detectors to provide coverage of the entire passenger area of such station.

(b) USE OF THREAT DETECTORS REQUIRED ON CERTAIN TRAINS.—The Secretary of Homeland Security shall require that, not later than 3 years after the date of the enactment of this Act, each train traveling through any of the 10 rail stations in the United States with the highest daily rate of passenger traffic be equipped with a radiological, biological, chemical, and explosive detector.

(c) REPORT ON SAFETY OF PASSENGER RAIL TUNNELS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall—

(A) review the safety and security of all passenger rail tunnels, including in particular the access and egress points of such tunnels; and

(B) submit to Congress a report on needs for improving the safety and security of passenger rail tunnels.

(2) CONTENT.—The report under paragraph (1) shall include recommendations regarding the funding necessary to eliminate security deficiencies at, and upgrade the safety of, passenger rail tunnels.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of enactment of this Act.

SA 3892. Mr. SCHUMER 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; as follows:

At the end, add the following new title:

TITLE IV—STRENGTHENING BORDER SECURITY

SEC. 401. TECHNOLOGY STANDARDS TO CONFIRM IDENTITY.

Section 403(c)(1) of the USA PATRIOT ACT (8 U.S.C. 1379(1)) is amended to read as follows:

''(1) IN GENERAL.—The Attorney General, the Secretary of State, and the Secretary of Homeland Security jointly, through the National Institute of Standards and Technology (NIST), and in consultation with the Secretary of the Treasury and other Federal law enforcement and intelligence agencies that the Attorney General, Secretary of State, and the Secretary of Homeland Security

deem appropriate and in consultation with Congress, shall prior to October 26, 2005, develop and certify a technology standard, including appropriate biometric identifier standards for multiple immutable physical characteristics, such as fingerprints and eye retinas, that can be used to verify the identity of persons applying for a United States visa or such persons seeking to enter the United States pursuant to a visa for the purposes of conducting background checks, confirming identity, and ensuring that a person has not received a visa under a different name.''.

SEC. 402. REQUIREMENTS FOR ENTRY AND EXIT DOCUMENTS.

(a) IN GENERAL.—Paragraph (1) of section 303(b) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732(b)) is amended to read as follows:

''(1) IN GENERAL.—Not later than October 25, 2005, the Attorney General, the Secretary of State, and the Secretary of Homeland Security shall issue to aliens only machine-readable, tamper-resistant visas and other travel and entry documents that use biometric identifiers for multiple immutable characteristics, such as fingerprints and eye retinas. The Attorney General, the Secretary of State, and the Secretary of Homeland Security shall jointly establish biometric and document identification standards for multiple immutable physical characteristics, such as fingerprints and eye retinas, to be employed on such visas and other travel and entry documents.''.

(b) CONSULTATION REQUIREMENTS.—Such section is further amended—

(1) in paragraph (2)(A), by striking ''in consultation with the Secretary of State'' and inserting ''in consultation with the Secretary of State and the Secretary of Homeland Security''; and

(2) in paragraph (2)(B) in the matter preceding clause (i), by striking ''in consultation with the Secretary of State'' and inserting ''in consultation with the Secretary of State and the Secretary of Homeland Security''.

(c) USE OF READERS AND SCANNERS.—Paragraph (2)(B) of such section, as amended by subsection (b), is further amended—

(1) by redesignating clauses (i), (ii), and (iii) as (ii), (iii), and (iv), respectively; and

(2) by inserting before clause (ii), as redesignated by paragraph (1), the following:

''(i) can authenticate biometric identifiers of multiple immutable physical characteristics, as such fingerprints and eye retinas;''.

(d) CERTIFICATION REQUIREMENTS.—Subsection (c) of such section is amended to read as follows:

''(1) IN GENERAL.—Not later than October 26, 2005, the government of each country that is designated to participate in the visa waiver program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) shall certify, as a condition of designation or a continuation of that designation, that it has a program to issue to its nationals machine-readable passports that are tamper-resistant and incorporate biometric and authentication identifiers of multiple immutable physical characteristics, such as fingerprints and eye retina scans. This paragraph shall not be construed to rescind the requirement of subsections (a)(3) and (c)(2)(B)(i) of section 217 of the Immigration and Nationality Act.''.

SA 3893. Mr. SCHUMER 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; as follows:

At the end, add the following new title:

TITLE IV—OTHER MATTERS

SEC. 401. CARGO INSPECTION.

(a) MANUAL INSPECTION.—Not later than 2 years after the date of enactment of this Act, the Secretary of Homeland Security shall require that the number of containers manually inspected at ports in the United States is not less than 10 percent of the total number of containers off-loaded at such ports.

(b) INSPECTION FOR NUCLEAR MATERIALS.—Not later than 2 years after the date of enactment of this Act, the Secretary of Homeland Security shall require that the number of containers screened for nuclear or radiological materials is not less than 100 percent of the total number of containers off-loaded at ports in the United States.

(c) INSPECTION FOR CHEMICAL, BIOLOGICAL, AND EXPLOSIVE MATERIALS.—Not later than 4 years after the date of enactment of this Act, the Secretary of Homeland Security shall require that the 10 ports in the United States that off-load the highest number of containers have the capability to screen not less than 10 percent of the total number of containers off-loaded at each such port for chemical, biological, and explosive materials.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on port security technology. Such report shall include—

(1) a description of the progress made in the research and development of port security technologies;

(2) a comprehensive schedule detailing the amount of time necessary to test and install appropriate port security technologies; and

(3) the total amount of funds necessary to develop, produce, and install appropriate port security technologies.

(e) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of enactment of this Act.

SA 3894. Mr. SCHUMER 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; as follows:

At the appropriate place, insert the following:

SEC. ___. ENHANCING CYBERSECURITY.

(a) SHORT TITLE.—This section may be cited as the ''Department of Homeland Security Cybersecurity Enhancement Act of 2004''.

(b) ASSISTANT SECRETARY FOR CYBERSECURITY.—

(1) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is amended by adding at the end the following:

''SEC. 203. ASSISTANT SECRETARY FOR CYBERSECURITY.

''(a) IN GENERAL.—There shall be in the Directorate for Information Analysis and Infrastructure Protection a National Cybersecurity Office headed by an Assistant Secretary for Cybersecurity (in this section referred to as the 'Assistant Secretary'), who shall assist the Secretary in promoting cybersecurity for the Nation.

''(b) GENERAL AUTHORITY.—The Assistant Secretary, subject to the direction and control of the Secretary, shall have primary authority within the Department for all cybersecurity-related critical infrastructure protection programs of the Department, including with respect to policy formulation and program management.

''(c) RESPONSIBILITIES.—The responsibilities of the Assistant Secretary shall include the following:

''(1) To establish and manage—

''(A) a national cybersecurity response system that includes the ability to—

''(i) analyze the effect of cybersecurity threat information on national critical infrastructure; and

''(ii) aid in the detection and warning of attacks on, and in the restoration of, cybersecurity infrastructure in the aftermath of such attacks;

''(B) a national cybersecurity threat and vulnerability reduction program that identifies cybersecurity vulnerabilities that would have a national effect on critical infrastructure, performs vulnerability assessments on information technologies, and coordinates the mitigation of such vulnerabilities;

''(C) a national cybersecurity awareness and training program that promotes cybersecurity awareness among the public and the private sectors and promotes cybersecurity training and education programs;

''(D) a government cybersecurity program to coordinate and consult with Federal, State, and local governments to enhance their cybersecurity programs; and

''(E) a national security and international cybersecurity cooperation program to help foster Federal efforts to enhance international cybersecurity awareness and cooperation.

''(2) To coordinate with the private sector on the program under paragraph (1) as appropriate, and to promote cybersecurity information sharing, vulnerability assessment, and threat warning regarding critical infrastructure.

''(3) To coordinate with other directorates and offices within the Department on the cybersecurity aspects of their missions.

''(4) To coordinate with the Under Secretary for Emergency Preparedness and Response to ensure that the National Response Plan developed pursuant to section 502(6) of the Homeland Security Act of 2002 (6 U.S.C. 312(6)) includes appropriate measures for the recovery of the cybersecurity elements of critical infrastructure.

''(5) To develop processes for information sharing with the private sector, consistent with section 214, that—

''(A) promote voluntary cybersecurity best practices, standards, and benchmarks that are responsive to rapid technology changes and to the security needs of critical infrastructure; and

''(B) consider roles of Federal, State, local, and foreign governments and the private sector, including the insurance industry and auditors.

''(6) To coordinate with the Chief Information Officer of the Department in establishing a secure information sharing architecture and information sharing processes, including with respect to the Department's operation centers.

''(7) To consult with the Electronic Crimes Task Force of the United States Secret Service on private sector outreach and information activities.

''(8) To consult with the Office for Domestic Preparedness to ensure that realistic cybersecurity scenarios are incorporated into tabletop and recovery exercises.

''(9) To consult and coordinate, as appropriate, with other Federal agencies on cybersecurity-related programs, policies, and operations.

''(10) To consult and coordinate within the Department and, where appropriate, with other relevant Federal agencies, on security of digital control systems, such as Supervisory Control and Data Acquisition (SCADA) systems.

''(d) AUTHORITY OVER THE NATIONAL COMMUNICATIONS SYSTEM.—The Assistant Secretary shall have primary authority within the Department over the National Communications System.''.

(2) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to subtitle A of title II the following:

''203. Assistant Secretary for Cybersecurity.''.

(c) CYBERSECURITY DEFINED.—Section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101) is amended by adding at the end the following:

''(17)(A) The term 'cybersecurity' means the prevention of damage to, the protection of, and the restoration of computers, electronic communications systems, electronic communication services, wire communication, and electronic communication, including information contained therein, to ensure its availability, integrity, authentication, confidentiality, and nonrepudiation.

''(B) In this paragraph—

''(i) each of the terms 'damage' and 'computer' has the meaning that term has in section 1030 of title 18, United States Code; and

''(ii) each of the terms 'electronic communications system', 'electronic communication service', 'wire communication', and 'electronic communication' has the meaning that term has in section 2510 of title 18, United States Code.''.

SA 3895. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 9, line 10, insert '', the National Counterproliferation Center,'' after ''Center''.

On page 14, beginning on line 14, strike ''and establish'' and all that follows through line 16 and insert ''manage and oversee the National Counterproliferation Center under section 144, and establish, manage, and oversee national intelligence centers under section 145;''.

On page 15, beginning on line 12, strike ''to national intelligence centers under section 144,'' and insert ''to the National Counterproliferation Center under section 144, to national intelligence centers under section 145,''.

On page 94, strike line 5 and insert the following:

SEC. 144. NATIONAL COUNTERPROLIFERATION CENTER.

(a) NATIONAL COUNTERPROLIFERATION CENTER.—(1) There is within the National Intelligence Authority a National Counterproliferation Center.

(2) The purpose of the Center is to develop, direct, and coordinate the efforts and activities of the United States Government to deter, prevent, halt, and rollback the pursuit, acquisition, development, and trafficking of weapons of mass destruction, related materials and technologies, and their delivery systems to terrorists, terrorist organizations, other non-state actors of concern, and state actors of concern.

(b) DIRECTOR OF NATIONAL COUNTERPROLIFERATION CENTER.—(1) There is a Director of the National Counterproliferation Center, who shall be the head of the National Counterproliferation Center, and who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Any individual nominated for appointment as the Director of the National Counterproliferation Center shall have significant expertise in matters relating to the national security of the United States and matters relating to the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies that threaten the national security of the United States, its interests, and allies.

(3) The individual serving as the Director of the National Counterproliferation Center may not, while so serving, serve in any capacity in any other element of the intelligence community, except to the extent that the individual serving as Director of the National Counterproliferation Center is doing so in an acting capacity.

(c) SUPERVISION.—(1) The Director of the National Counterproliferation Center shall report to the National Intelligence Director on the budget, personnel, activities, and programs of the National Counterproliferation Center.

(2) The Director of the National Counterproliferation Center shall report to the National Intelligence Director on the activities of the Directorate of Intelligence of the National Counterproliferation Center under subsection (g).

(3) The Director of the National Counterproliferation Center shall report to the President and the National Intelligence Director on the planning and progress of counterproliferation programs, operations, and activities.

(d) PRIMARY MISSIONS.—The primary missions of the National Counterproliferation Center shall be as follows:

(1) To develop and unify strategy for the counterproliferation efforts (including law enforcement, economic, diplomatic, intelligence, and military efforts) of the United States Government.

(2) To make recommendations to the National Intelligence Director with regard to the collection and analysis requirements and priorities of the National Counterproliferation Center.

(3) To integrate counterproliferation intelligence activities of the United States Government, both inside and outside the United States, and with other governments.

(4) To develop multilateral and United States Government counterproliferation plans, which plans shall—

(A) involve more than one department, agency, or element of the executive branch (unless otherwise directed by the President) of the United States Government; and

(B) include the mission, objectives to be achieved, courses of action, parameters for such courses of action, coordination of agency operational activities, recommendations for operational plans, and assignment of national, departmental, or agency responsibilities.

(5) To ensure that the collection, analysis, and utilization of counterproliferation intelligence, and the conduct of counterproliferation operations, by the United States Government are informed by the analysis of all-source intelligence.

(e) DUTIES AND RESPONSIBILITIES OF DIRECTOR OF NATIONAL COUNTERPROLIFERATION CENTER.—Notwithstanding any other provision of law, at the direction of the President, the National Security Council, and the National Intelligence Director, the Director of the National Counterproliferation Center shall—

(1) serve as the principal adviser to the President and the National Intelligence Director on intelligence and operations relating to counterproliferation;

(2) provide unified strategic direction for the counterproliferation efforts of the United States Government and for the effective integration and deconfliction of counterproliferation intelligence collection, analysis, and operations across agency boundaries, both inside and outside the United States, and with foreign governments;

(3) advise the President and the National Intelligence Director on the extent to which the counterproliferation program recommendations and budget proposals of the departments, agencies, and elements of the United States Government conform to the policies and priorities established by the President and the National Security Council;

(4) in accordance with subsection (f), concur in, or advise the President on, the selections of personnel to head the nonmilitary operating entities of the United States Government with principal missions relating to counterproliferation;

(5) serve as the principal representative of the United States Government to multilateral and bilateral organizations, forums, events, and activities related to counterproliferation;

(6) advise the President and the National Intelligence Director on the science and technology research and development requirements and priorities of the counterproliferation programs and activities of the United States Government; and

(7) perform such other duties as the National Intelligence Director may prescribe or are prescribed by law;

(f) ROLE OF DIRECTOR OF NATIONAL COUNTERPROLIFERATION CENTER IN CERTAIN APPOINTMENTS.—(1) In the event of a vacancy in the most senior position of such nonmilitary operating entities of the United States Government having principal missions relating to counterproliferation as the President may designate, the head of the department or agency having jurisdiction over the position shall obtain the concurrence of the Director of the National Counterproliferation Center before appointing an individual to fill the vacancy or recommending to the President an individual for nomination to fill the vacancy. If the Director does not concur in the recommendation, the head of the department or agency concerned may fill the vacancy or make the recommendation to the President (as the case may be) without the concurrence of the Director, but shall notify the President that the Director does not concur in the appointment or recommendation (as the case may be).

(2) The President shall notify Congress of the designation of an operating entity of the United States Government under paragraph (1) not later than 30 days after the date of such designation.

(g) DIRECTORATE OF INTELLIGENCE.—(1) The Director of the National Counterproliferation Center shall establish and maintain within the National Counterproliferation Center a Directorate of Intelligence.

(2) The Directorate shall have primary responsibility within the United States Government for the collection and analysis of information regarding proliferators (including individuals, entities, organizations, companies, and states) and their networks, from all sources of intelligence, whether collected inside or outside the United States, or by foreign governments.

(3) The Directorate shall—

(A) be the principal repository within the United States Government for all-source information on suspected proliferators, their networks, their activities, and their capabilities;

(B) propose intelligence collection and analysis requirements and priorities for action by elements of the intelligence community inside and outside the United States, and by friendly foreign governments;

(C) have primary responsibility within the United States Government for net assessments and warnings about weapons of mass destruction proliferation threats, which assessments and warnings shall be based on a comparison of the intentions and capabilities of proliferators with assessed national vulnerabilities and countermeasures;

(D) conduct through a separate, independent office independent analyses (commonly referred to as ''red teaming'') of intelligence collected and analyzed with respect to proliferation; and

(E) perform such other duties and functions as the Director of the National Counterproliferation Center may prescribe.

(h) DIRECTORATE OF PLANNING.—(1) The Director of the National Counterproliferation Center shall establish and maintain within the National Counterproliferation Center a Directorate of Planning.

(2) The Directorate shall have primary responsibility for developing counterproliferation plans, as described in subsection (d)(3).

(3) The Directorate shall—

(A) provide guidance, and develop strategy and interagency plans, to counter proliferation activities based on policy objectives and priorities established by the National Security Council;

(B) develop plans under subparagraph (A) utilizing input from personnel in other departments, agencies, and elements of the United States Government who have expertise in the priorities, functions, assets, programs, capabilities, and operations of such departments, agencies, and elements with respect to counterproliferation;

(C) assign responsibilities for counterproliferation operations to the departments and agencies of the United States Government (including the Department of Defense, the Department of State, the Central Intelligence Agency, the Federal Bureau of Investigation, the Department of Homeland Security, and other departments and agencies of the United States Government), consistent with the authorities of such departments and agencies;

(D) monitor the implementation of operations assigned under subparagraph (C) and update interagency plans for such operations as necessary;

(E) report to the President and the National Intelligence Director on the performance of the departments, agencies, and elements of the United States with the plans developed under subparagraph (A); and

(F) perform such other duties and functions as the Director of the National Counterproliferation Center may prescribe.

(4) The Directorate may not direct the execution of operations assigned under paragraph (3).

(i) STAFF.—(1) The National Intelligence Director may appoint deputy directors of the National Counterproliferation Center to oversee such portions of the operations of the Center as the National Intelligence Director considers appropriate.

(2) To assist the Director of the National Counterproliferation Center in fulfilling the duties and responsibilities of the Director of the National Counterproliferation Center under this section, the National Intelligence Director shall employ in the National Counterproliferation Center a professional staff having an expertise in matters relating to such duties and responsibilities.

(3) In providing for a professional staff for the National Counterproliferation Center under paragraph (2), the National Intelligence Director may establish as positions in the excepted service such positions in the Center as the National Intelligence Director considers appropriate.

(4) The National Intelligence Director shall ensure that the analytical staff of the National Counterproliferation Center is comprised primarily of experts from elements in the intelligence community and from such other personnel in the United States Government as the National Intelligence Director considers appropriate.

(5)(A) In order to meet the requirements in paragraph (4), the National Intelligence Director shall, from time to time—

(i) specify the transfers, assignments, and details of personnel funded within the National Intelligence Program to the National Counterproliferation Center from any other non-Department of Defense element of the intelligence community that the National Intelligence Director considers appropriate; and

(ii) in the case of personnel from a department, agency, or element of the United States Government and not funded within the National Intelligence Program, request the transfer, assignment, or detail of such personnel from the department, agency, or other element concerned.

(B)(i) The head of an element of the intelligence community shall promptly effect any transfer, assignment, or detail of personnel specified by the National Intelligence Director under subparagraph (A)(i).

(ii) The head of a department, agency, or element of the United States Government receiving a request for transfer, assignment, or detail of personnel under subparagraph (A)(ii) shall, to the extent practicable, approve the request.

(6) Personnel employed in or assigned or detailed to the National Counterproliferation Center under this subsection shall be under the authority, direction, and control of the Director of the National Counterproliferation Center on all matters for which the Center has been assigned responsibility and for all matters related to the accomplishment of the missions of the Center.

(7) Performance evaluations of personnel assigned or detailed to the National Counterproliferation Center under this subsection shall be undertaken by the supervisors of such personnel at the Center.

(8) The supervisors of the staff of the National Counterproliferation Center may, with the approval of the National Intelligence Director, reward the staff of the Center for meritorious performance by the provision of such performance awards as the National Intelligence Director shall prescribe.

(9) The National Intelligence Director may delegate to the Director of the National Counterproliferation Center any responsibility, power, or authority of the National Intelligence Director under paragraphs (1) through (8).

(10) The National Intelligence Director shall ensure that the staff of the National Counterproliferation Center has access to all databases and information maintained by the elements of the intelligence community that are relevant to the duties of the Center.

(j) SUPPORT AND COOPERATION OF OTHER AGENCIES.—(1) The elements of the intelligence community and the other departments, agencies, and elements of the United States Government shall support, assist, and cooperate with the National Counterproliferation Center in carrying out its missions under this section.

(2) The support, assistance, and cooperation of a department, agency, or element of the United States Government under this subsection shall include, but not be limited to—

(A) the implementation of interagency plans for operations, whether foreign or domestic, that are developed by the National Counterproliferation Center in a manner consistent with the laws and regulations of the United States and consistent with the limitation in subsection (h)(4);

(B) cooperative work with the Director of the National Counterproliferation Center to ensure that ongoing operations of such department, agency, or element do not conflict with operations planned by the Center;

(C) reports, upon request, to the Director of the National Counterproliferation Center on the performance of such department, agency, or element in implementing responsibilities assigned to such department, agency, or element through joint operations plans; and

(D) the provision to the analysts of the National Counterproliferation Center electronic access in real time to information and intelligence collected by such department, agency, or element that is relevant to the missions of the Center.

(3) In the event of a disagreement between the National Intelligence Director and the head of a department, agency, or element of the United States Government on a plan developed or responsibility assigned by the National Counterproliferation Center under this subsection, the National Intelligence Director may either accede to the head of the department, agency, or element concerned or notify the President of the necessity of resolving the disagreement.

(k) DEFINITIONS.—In this section:

(1) The term ''counterproliferation'' means—

(A) activities, programs and measures for interdicting (including deterring, preventing, halting, and rolling back) the transfer or transport (whether by air, land or sea) of weapons of mass destruction, their delivery systems, and related materials and technologies to and from states and non-state actors (especially terrorists and terrorist organizations) of proliferation concern;

(B) enhanced law enforcement activities and cooperation to deter, prevent, halt, and rollback proliferation-related networks, activities, organizations, and individuals, and bring those involved to justice; and

(C) activities, programs, and measures for identifying, collecting, and analyzing information and intelligence related to the transfer or transport of weapons, systems, materials, and technologies as described in subparagraph (A).

(2) The term ''states and non-state actors of proliferation concern'' refers to countries or entities (including individuals, entities, organizations, companies, and networks) that should be subject to counterproliferation activities because of their actions or intent to engage in proliferation through—

(A) efforts to develop or acquire chemical, biological, or nuclear weapons and associated delivery systems; or

(B) transfers (either selling, receiving, or facilitating) of weapons of mass destruction, their delivery systems, or related materials.

SEC. 145. NATIONAL INTELLIGENCE CENTERS.

On page 207, strike line 16 and insert the following:

Center.

''Director of the National Counterproliferation Center.''.

SA 3896. Mr. FRIST 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 8, strike lines 3 and 4 and insert the following:

(A) the Select Committee on Intelligence of the Senate;

(B) the Permanent Select Committee on Intelligence of the House of Representatives;

(C) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

(D) the Majority Leader and the Minority Leader of the Senate.

On page 172, beginning on line 24, strike ''the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives,'' and insert ''the committees and Members of Congress specified in subsection (c),''.

On page 173, beginning on line 17, strike ''the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives,'' and insert ''the committees and Members of Congress specified in subsection (c),''.

On page 174, beginning on line 7, strike ''Representatives'' and all that follows through line 13 and insert ''Representatives, the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives, and the Majority Leader and the Minority Leader of the Senate. Upon making a report covered by this paragraph—

''(A) the Chairman, Vice Chairman, or Ranking Member, as the case may be, of such a committee shall notify the other of the Chairman, Vice Chairman, or Ranking Member, as the case may be, of such committee of such request;

''(B) the Speaker of the House of Representatives and the Majority Leader of the House of Representatives or the Minority Leader of the House of Representatives shall notify the other or others, as the case may be, of such request; and

''(C) the Majority Leader and Minority Leader of the Senate shall notify the other of such request.

On page 174, between lines 22 and 23, insert the following:

(c) COMMITTEES AND MEMBERS OF CONGRESS.—The committees and Members of Congress specified in this subsection are—

(1) the Select Committee on Intelligence of the Senate;

(2) the Permanent Select Committee on Intelligence of the House of Representatives;

(3) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

(4) the Majority Leader and the Minority Leader of the Senate.

On page 176, between lines 3 and 4, insert the following:

(iii) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives;

(iv) the Majority Leader and the Minority Leader of the Senate;

On page 176, line 4, strike ''(ii)'' and insert ''(v)''.

On page 176, line 7, strike ''(iii)'' and insert ''(vi)''.

On page 200, between lines 4 and 5, insert the following:

SEC. 307. MODIFICATION OF DEFINITION OF CONGRESSIONAL INTELLIGENCE COMMITTEES UNDER NATIONAL SECURITY ACT OF 1947.

(a) IN GENERAL.—Paragraph (7) of section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended to read as follows:

''(7) The term 'congressional intelligence committees' means—

''(A) the Select Committee on Intelligence of the Senate;

''(B) the Permanent Select Committee on Intelligence of the House of Representatives;

''(C) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

''(D) the Majority Leader and the Minority Leader of the Senate.''.

(b) FUNDING OF INTELLIGENCE ACTIVITIES.—Paragraph (2) of section 504(e) of that Act (50 U.S.C. 414(e)) is amended to read as follows:

''(2) the term 'appropriate congressional committees' means—

''(A) the Select Committee on Intelligence and the Committee on Appropriations of the Senate;

''(B) the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives;

''(C) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

''(D) the Majority Leader and the Minority Leader of the Senate;''.

On page 200, line 5, strike ''**307.**'' and insert ''**308.**''.

On page 200, line 12, strike ''**308.**'' and insert ''**309.**''.

On page 200, line 19, strike ''**309.**'' and insert ''**310.**''.

On page 201, line 11, strike ''**310.**'' and insert ''**311.**''.

On page 203, line 9, strike ''**311.**'' and insert ''**312.**''.

On page 204, line 1, strike ''**312.**'' and insert ''**313.**''.

SA 3897. Mr. FRIST 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 78, line 18, strike ''and'' at the end.

On page 79, line 2, strike the period and insert ''; and''.

On page 79, between lines 2 and 3, insert the following:

(4) monitor the effectiveness of measures taken to prevent and prohibit the involvement by intelligence community personnel in policy matters, including the development or advancement of policy proposals, options, initiatives, or recommendations, or the offering of views or commentary thereon.

SA 3898. Mr. FRIST 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 171, after line 21, add the following:

SEC. 223. INDEPENDENCE OF POLICY FROM INTELLIGENCE.

(a) PROHIBITIONS ON PARTICIPATION OF INTELLIGENCE COMMUNITY PERSONNEL IN POLICY MATTERS.—To further prevent the politicization of intelligence, covered officers and employees of the intelligence community shall not—

(1) participate in policy matters, including the development of policy, debating of policy issues, offering and advancement of policy views and proposals, and voting in interagency forums on policy issues; or

(2) serve in a policy position in any branch of the United States Government, or in any position in which the person assigned to such position may be asked or required to participate in activities prohibited under paragraph (1).

(b) IMPLEMENTATION OF PROHIBITIONS.—The National Intelligence Director, the National Intelligence Council, the Inspector General of the National Intelligence Authority, the Director of the National Counterterrorism Center, and the Directors of the national intelligence centers shall each take appropriate actions to ensure the strict adherence of covered officers and employees of the intelligence community to the prohibitions set forth in subsection (a).

(c) ANNUAL REPORTS.—The National Intelligence Director shall submit to the congressional intelligence committees each year a report that sets forth—

(1) a description of the actions taken during the preceding year to ensure the strict adherence of covered officers and employees of the intelligence community to the prohibitions set forth in subsection (a); and

(2) an assessment of the effectiveness of such actions in ensuring the strict adherence of covered officers and employees of the intelligence community to such prohibitions.

(d) COVERED OFFICERS AND EMPLOYEES OF THE INTELLIGENCE COMMUNITY DEFINED.—In this section, the term ''covered officers and employees of the intelligence community'' means any officer or employee of an element of the intelligence community, other than an officer serving in a position to which appointed by the President, by and with the advice and consent of the Senate.

On page 172, line 1, strike ''**223.**'' and insert ''**224.**''.

On page 172, line 18, strike ''**224.**'' and insert ''**225.**''.

On page 174, line 23, strike ''**225.**'' and insert ''**226.**''.

SA 3899. Mr. FRIST 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 153, between lines 2 and 3, insert the following:

SEC. 207. JOINT PROCEDURES FOR OPERATIONAL COORDINATION BETWEEN DEPARTMENT OF DEFENSE AND CENTRAL INTELLIGENCE AGENCY.

(a) DEVELOPMENT OF PROCEDURES.—The National Intelligence Director, in consultation with the Secretary of Defense and the Director of the Central Intelligence Agency, shall develop joint procedures to be used by the Department of Defense and the Central Intelligence Agency to improve the coordination and deconfliction of operations that involve elements of both the Armed Forces and the Central Intelligence Agency consistent with national security and the protection of human intelligence sources and methods. Those procedures shall, at a minimum, provide the following:

(1) Methods by which the Director of the Central Intelligence Agency and the Secretary of Defense can improve communication and coordination in the planning, execution, and sustainment of operations, including, as a minimum—

(A) information exchange between senior officials of the Central Intelligence Agency and senior officers and officials of the Department of Defense when planning for such an operation commences by either organization; and

(B) exchange of information between the Secretary and the Director to ensure that senior operational officials in both the Department of Defense and the Central Intelligence Agency have knowledge of the existence of the ongoing operations of the other.

(2) When appropriate, in cases where the Department of Defense and the Central Intelligence Agency are conducting separate missions in the same geographical area, mutual agreement on the tactical and strategic objectives for the region and a clear delineation of operational responsibilities to prevent conflict and duplication of effort.

(b) IMPLEMENTATION REPORT.—Not later than 180 days after the date of the enactment of the Act, the National Intelligence Director shall submit to the congressional defense committees (as defined in section 101 of title

10, United States Code) and the congressional intelligence committees a report describing the procedures established pursuant to subsection (a) and the status of the implementation of those procedures.

SEC. 208. SUPPORT OF MILITARY OPERATIONS TO COMBAT TERRORISM.

(a) AUTHORITY.—The Secretary of Defense may expend up to $25,000,000 during any fiscal year to provide support to foreign forces, irregular forces, groups, or individuals engaged in supporting or facilitating ongoing military operations by United States special operations forces to combat terrorism.

(b) INTELLIGENCE ACTIVITIES.—This section does not constitute authority to conduct a covert action, as such term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 413b(e)).

(c) ANNUAL REPORT.—Not later than 30 days after the end of each fiscal year, the Secretary shall submit to the congressional defense committees a report on support provided under this section during such fiscal year. Each such report shall describe the support provided, including a statement of the recipient of the support and the amount obligated to provide the support.

(d) FISCAL YEAR 2005 LIMITATION.—Support may be provided under subsection (a) during fiscal year 2005 only from funds made available for the Department of Defense for operations and maintenance for that fiscal year.

(e) NOTICE TO CONGRESS.—The Secretary shall notify the congressional defense committees of each exercise of the authority in subsection (a) not later than 30 days after the exercise of such authority.

(f) NOTICE TO CENTRAL INTELLIGENCE AGENCY.—Before each exercise of the authority in subsection, or as soon thereafter as is practicable, the Secretary shall notify the Director of the Central Intelligence Agency of such exercise of such authority.

SA 3900. Mr. FRIST 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 213, after line 12, add the following:

TITLE IV—COUNTERTERRORISM CAPABILITIES OF THE UNITED STATES

SEC. 401. COMMISSION TO ASSESS THE OPERATIONAL COUNTERTERRORISM CAPABILITIES OF THE UNITED STATES.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the ''Commission to Assess the Operational Counterterrorism Capabilities of the United States'' (hereafter in this title referred to as the ''Commission'').

(b) COMPOSITION.—The Commission shall be composed of 9 members appointed as follows:

(1) The Speaker of the House of Representatives shall appoint 2 members of the Commission.

(2) The majority leader of the Senate shall appoint 3 members of the Commission.

(3) The minority leader of the House of Representatives shall appoint 2 members of the Commission.

(4) The minority leader of the Senate shall appoint 2 members of the Commission.

(c) QUALIFICATIONS.—Members of the Commission shall be appointed from among United States citizens with knowledge and expertise in the military, paramilitary, covert, and clandestine aspects of counterterrorism operations.

(d) CHAIRMAN AND VICE CHAIRMAN.—The members of the Commission shall select a Chairman and Vice Chairman of the Commission from among the members of the Commission.

(e) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(f) SECURITY CLEARANCES.—All members of the Commission shall hold appropriate security clearances.

(g) INITIAL ORGANIZATION REQUIREMENTS.—(1) All appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act.

(2) The Commission shall convene its first meeting not later than 30 days after the date as of which all members of the Commission have been appointed.

SEC. 402. DUTIES.

(a) IN GENERAL.—The Commission shall assess the organization, structure, authorities, and capabilities of the operational counterterrorism capabilities of the Department of Defense and the Central Intelligence Agency, including—

(1) the capability of each of the Department of Defense and the Central Intelligence Agency to deter, defend against, and defeat terrorists, terrorist organizations, and terrorist activities, both independently and in a joint manner; and

(2) the cooperation and coordination between the tactical, operational, and strategic counterterrorism elements and components of the Department of Defense and the Central Intelligence Agency.

(b) RECOMMENDATIONS.—(1) The Commission shall—

(A) identify problems and impediments to the improved effectiveness of the Department of Defense and the Central Intelligence Agency in combating terrorism, when working both independently and jointly; and

(B) make such recommendations, including recommendations for legislative and administrative action, as the Commission considers appropriate to address the problems and impediments identified under subparagraph (A) and to improve the effectiveness of each of the Department of Defense and the Central Intelligence Agency in combatting terrorism when working both independently and jointly.

(2) The recommendations under paragraph (1)(B) shall include recommendations on modifications in funding, authorities, organization, training, doctrine, resources to improve the independent and joint effectiveness of the operational elements and activities of the Department of Defense and of the Central Intelligence Agency regarding counterterrorism.

(c) REPORTS.—(1) Not later than 12 months after the date of the enactment of this Act, the Commission shall submit to Congress an interim report on the findings and conclusions of the Commission as of the date of such report as a result of the assessment required by subsection (a).

(2) Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to Congress a final report containing a detailed statement of the findings and conclusions of the Commission as a result of the assessment required by subsection (a), together with the recommendations of the Commission under subsection (b).

(3) Each report under this subsection shall be submitted in unclassified form, but may include a classified annex.

SEC. 403. POWERS.

(a) HEARINGS.—The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out the provisions of this title, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(b) INFORMATION.—The Commission may secure directly from the Department of Defense, the Central Intelligence Agency, and any other department, agency, or element of the United States Government information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this title.

(c) COOPERATION OF GOVERNMENT OFFICIALS.—For purposes of carrying out its duties, the Commission shall receive the full and timely cooperation of the Secretary of Defense, the Director of the Central Intelligence Agency, the National Intelligence Director, and any other official of the United States Government that the Commission considers appropriate.

SEC. 404. PROCEDURES.

(a) MEETINGS.—The Commission shall meet at the call of the Chairman.

(b) QUORUM.—(1) Five members of the Commission shall constitute a quorum other than for the purpose of holding hearings.

(2) The Commission shall act by resolution agreed to by a majority of the members of the Commission.

(c) COMMISSION.—The Commission may establish panels composed of less than full membership of the Commission for the purpose of carrying out the duties of the Commission. The actions of each such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(d) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this title.

SEC. 405. PERSONNEL MATTERS.

(a) PAY OF MEMBERS.—Members of the Commission shall serve without pay by reason of their work on the Commission.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—(1) The Chairman of the Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties. The appointment of a staff director shall be subject to the approval of the Commission.

(2) The Chairman of the Commission may fix the pay of the staff director and other personnel without regard to the provisions of 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 fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title and the rate of pay for other personnel may not exceed the maximum rate payable for grade GS–15 of the General Schedule.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Chairman of the Commission, the head of any department, agency, or element of the United States Government may detail, on a nonreimbursable

basis, any personnel of such department, agency, or element to the Commission to assist it in carrying out its duties.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title.

SEC. 406. MISCELLANEOUS ADMINISTRATIVE PROVISIONS.

(a) POSTAL AND PRINTING SERVICES.—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the United States Government.

(b) MISCELLANEOUS ADMINISTRATIVE AND SUPPORT SERVICES.—The Director of the Central Intelligence Agency shall furnish the Commission, on a reimbursable basis, any administrative and support services requested by the Commission.

SEC. 407. FUNDING.

(a) AVAILABILITY OF FUNDS.—Funds for the activities of the Commission shall be derived from amounts authorized to be appropriated for the Department of Defense for operation and maintenance for defense-wide activities for fiscal year 2005.

(b) DISBURSAL.—Upon receipt of a written certification from the Chairman of the Commission specifying the funds required for the activities of the Commission, the Secretary of Defense shall promptly disburse to the Commission, from amounts referred to in subsection (a), the funds required by the Commission as stated in such certification.

SEC. 408. TERMINATION.

The Commission shall terminate 60 days after the date of the submittal to Congress of its final report under section 402(c).

SA 3901. 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:

At the appropriate place, insert the following:

SEC. ———. DEADLINE FOR COMPLETION OF CERTAIN PLANS, REPORTS, AND ASSESSMENTS.

(a) STRATEGIC PLAN REPORTS.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall transmit to the Congress—

(1) a report on the status of the National Maritime Transportation Security Plan required by section 70103(a) of title 46, United States Code, which may be submitted in classified and redacted format;

(2) a comprehensive program management plan that identifies specific tasks to be completed and deadlines for completion for the transportation security card program under section 70105 of title 46, United States Code that incorporates best practices for communicating, coordinating, and collaborating with the relevant stakeholders to resolve relevant issues, such as background checks;

(3) a report on the status of negotiations under section 103 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70111 note);

(4) the report required by section 107(b) of the Maritime Transportation Security Act of 2002 (33 U.S.C. 1226 note); and

(5) a report on the status of the development of the system and program mandated by section 111 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70116 note).

(b) OTHER REPORTS.—Within 90 days after the date of enactment of this Act—

(1) the Secretary of Homeland Security shall transmit to the Congress—

(A) a report on the establishment of the National Maritime Security Advisory Committee appointed under section 70112 of title 46, United States Code; and

(B) a report on the status of the program established under section 70116 of title 46, United States Code, to evaluate and certify secure systems of international intermodal transportation;

(2) the Secretary of Transportation shall transmit to the Congress the annual report required by section 905 of the International Maritime and Port Security Act (46 U.S.C. App. 1802) that includes information that should have been included in the last preceding annual report that was due under that section; and

(3) the Commandant of the United States Coast Guard shall transmit to Congress the report required by section 110(b) of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70101 note).

(d) EFFECTIVE DATE.—Notwithstanding any other provision of this Act, this section takes effect on the date of enactment of this Act.

SA 3902. Mr. CARPER 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:

At the end, insert the following new title:

TITLE IV—RAIL SECURITY

SECTION 401. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Rail Security Act of 2004''.

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

Sec. 401. Short title; table of contents.
Sec. 402. Rail transportation security risk assessment.
Sec. 403. Rail security.
Sec. 404. Study of foreign rail transport security programs.
Sec. 405. Passenger, baggage, and cargo screening.
Sec. 406. Certain personnel limitations not to apply.
Sec. 407. Fire and life-safety improvements.
Sec. 408. Memorandum of agreement.
Sec. 409. Amtrak plan to assist families of passengers involved in rail passenger accidents.
Sec. 410. Systemwide Amtrak security upgrades.
Sec. 411. Freight and passenger rail security upgrades.
Sec. 412. Oversight and grant procedures.
Sec. 413. Rail security research and development.
Sec. 414. Welded rail and tank car safety improvements.
Sec. 415. Northern Border rail passenger report.
Sec. 416. Report regarding impact on security of train travel in communities without grade separation.
Sec. 417. Whistleblower protection program.

SEC. 402. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) IN GENERAL.—

(1) VULNERABILITY ASSESSMENT.—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Secretary of Transportation, shall complete a vulnerability assessment of freight and passenger rail transportation (encompassing railroads, as that term is defined in section 20102(1) of title 49, United States Code). The assessment shall include—

(A) identification and evaluation of critical assets and infrastructures;

(B) identification of threats to those assets and infrastructures;

(C) identification of vulnerabilities that are specific to the transportation of hazardous materials via railroad; and

(D) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems, procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment.

(2) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The assessment shall take into account actions taken or planned by both public and private entities to address identified security issues and assess the effective integration of such actions.

(3) RECOMMENDATIONS.—Based on the assessment conducted under paragraph (1), the Under Secretary, in consultation with the Secretary of Transportation, shall develop prioritized recommendations for improving rail security, including any recommendations the Under Secretary has for—

(A) improving the security of rail tunnels, rail bridges, rail switching and car storage areas, other rail infrastructure and facilities, information systems, and other areas identified by the Under Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;

(B) deploying equipment to detect explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;

(C) training employees in terrorism prevention, passenger evacuation, and response activities;

(D) conducting public outreach campaigns on passenger railroads;

(E) deploying surveillance equipment; and

(F) identifying the immediate and long-term costs of measures that may be required to address those risks.

(4) PLANS.—The report required by subsection (c) shall include—

(A) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the government to provide increased security support at high or severe threat levels of alert; and

(B) a plan for coordinating rail security initiatives undertaken by the public and private sectors.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment required by subsection (a), the Under Secretary of Homeland Security for Border and Transportation Security shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, first responders, shippers of hazardous materials, public safety officials (including those within other agencies and offices within the Department of Homeland Security), and other relevant parties.

(c) REPORT.—

(1) CONTENTS.—Within 180 days after the date of enactment of this Act, the Under Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives

Committee on Transportation and Infrastructure a report containing the assessment and prioritized recommendations required by subsection (a) and an estimate of the cost to implement such recommendations.

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

(d) 2-YEAR UPDATES.—The Under Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations every 2 years and transmit a report, which may be submitted in both classified and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $5,000,000 for fiscal year 2005 for the purpose of carrying out this section.

SEC. 403. RAIL SECURITY.

(a) RAIL POLICE OFFICERS.—Section 28101 of title 49, United States Code, is amended by striking ''the rail carrier'' each place it appears and inserting ''any rail carrier''.

(b) REVIEW OF RAIL REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Under Secretary of Homeland Security for Border and Transportation Security, shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail security.

SEC. 404. STUDY OF FOREIGN RAIL TRANSPORT SECURITY PROGRAMS.

(a) REQUIREMENT FOR STUDY.—Within one year after the date of enactment of the Rail Security Act of 2004, the Comptroller General shall complete a study of the rail passenger transportation security programs that are carried out for rail transportation systems in Japan, member nations of the European Union, and other foreign countries.

(b) PURPOSE.—The purpose of the study shall be to identify effective rail transportation security measures that are in use in foreign rail transportation systems, including innovative measures and screening procedures determined effective.

(c) REPORT.—The Comptroller General shall submit a report on the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The report shall include the Comptroller General's assessment regarding whether it is feasible to implement within the United States any of the same or similar security measures that are determined effective under the study.

SEC. 405. PASSENGER, BAGGAGE, AND CARGO SCREENING.

(a) REQUIREMENT FOR STUDY AND REPORT.—The Under Secretary of Homeland Security for Border and Transportation Security, in cooperation with the Secretary of Transportation, shall—

(1) analyze the cost and feasibility of requiring security screening for passengers, baggage, and cargo on passenger trains; and

(2) report the results of the study, together with any recommendations that the Under Secretary may have for implementing a rail security screening program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

(b) PILOT PROGRAM.—As part of the study under subsection (a), the Under Secretary shall complete a pilot program of random security screening of passengers and baggage at 5 passenger rail stations served by Amtrak selected by the Under Secretary. In conducting the pilot program, the Under Secretary shall—

(1) test a wide range of explosives detection technologies, devices and methods;

(2) require that intercity rail passengers produce government-issued photographic identification which matches the name on the passenger's tickets prior to boarding trains; and

(3) attempt to give preference to locations at the highest risk of terrorist attack and achieve a distribution of participating train stations in terms of geographic location, size, passenger volume, and whether the station is used by commuter rail passengers as well as Amtrak passengers.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security to carry out this section $5,000,000 for fiscal year 2005.

SEC. 406. CERTAIN PERSONNEL LIMITATIONS NOT TO APPLY.

Any statutory limitation on the number of employees in the Transportation Security Administration of the Department of Transportation, before or after its transfer to the Department of Homeland Security, does not apply to the extent that any such employees are responsible for implementing the provisions of this Act.

SEC. 407. FIRE AND LIFE-SAFETY IMPROVEMENTS.

(a) LIFE-SAFETY NEEDS.—The Secretary of Transportation is authorized to make grants to Amtrak for the purpose of making fire and life-safety improvements to Amtrak tunnels on the Northeast Corridor in New York, NY, Baltimore, MD, and Washington, DC.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts:

(1) For the 6 New York tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—

(A) $100,000,000 for fiscal year 2005;
(B) $100,000,000 for fiscal year 2006;
(C) $100,000,000 for fiscal year 2007;
(D) $100,000,000 for fiscal year 2008; and
(E) $170,000,000 for fiscal year 2009.

(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

(A) $10,000,000 for fiscal year 2005;
(B) $10,000,000 for fiscal year 2006;
(C) $10,000,000 for fiscal year 2007;
(D) $10,000,000 for fiscal year 2008; and
(E) $17,000,000 for fiscal year 2009.

(3) For the Washington, DC Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

(A) $8,000,000 for fiscal year 2005;
(B) $8,000,000 for fiscal year 2006;
(C) $8,000,000 for fiscal year 2007;
(D) $8,000,000 for fiscal year 2008; and
(E) $8,000,000 for fiscal year 2009.

(c) INFRASTRUCTURE UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for fiscal year 2005 $3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

(e) PLANS REQUIRED.—The Secretary may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—

(1) until Amtrak has submitted to the Secretary, and the Secretary has approved, an engineering and financial plan for such projects; and

(2) unless, for each project funded pursuant to this section, the Secretary has approved a project management plan prepared by Amtrak addressing appropriate project budget, construction schedule, recipient staff organization, document control and record keeping, change order procedure, quality control and assurance, periodic plan updates, periodic status reports, and such other matters the Secretary deems appropriate.

(f) REVIEW OF PLANS.—The Secretary of Transportation shall complete the review of the plans required by paragraphs (1) and (2) of subsection (e) and approve or disapprove the plans within 45 days after the date on which each such plan is submitted by Amtrak. If the Secretary determines that a plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary's notification, submit a modified plan for the Secretary's review. Within 15 days after receiving additional information on items previously included in the plan, and within 45 days after receiving items newly included in a modified plan, the Secretary shall either approve the modified plan, or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the portions of the plan the Secretary finds incomplete or deficient, approve all other portions of the plan, obligate the funds associated with those other portions, and execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

(g) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers at levels reflecting the extent of their use of the tunnels, if feasible.

SEC. 408. MEMORANDUM OF AGREEMENT.

(a) MEMORANDUM OF AGREEMENT.—Within 60 days after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall execute a memorandum of agreement governing the roles and responsibilities of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

(b) RAIL SAFETY REGULATIONS.—Section 20103(a) of title 49, United States Code, is amended by striking ''safety'' the first place it appears, and inserting ''safety, including security,''.

SEC. 409. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

''§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents

''(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Rail Security Act of 2004, Amtrak shall submit to the Chairman of the National Transportation Safety Board and the Secretary of Transportation a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.

''(b) CONTENTS OF PLANS.—The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:

''(1) A process by which Amtrak will maintain and provide to the National Transportation Safety Board and the Secretary of Transportation, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

''(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

''(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

''(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

''(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control; that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.

''(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

''(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

''(c) USE OF INFORMATION.—The National Transportation Safety Board, the Secretary of Transportation, and Amtrak may not release to any person information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.

''(d) LIMITATION ON LIABILITY.—Amtrak shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of Amtrak in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by Amtrak under subsection (b), unless such liability was caused by Amtrak's conduct.

''(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that Amtrak may take, or the obligations that Amtrak may have, in providing assistance to the families of passengers involved in a rail passenger accident.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak $500,000 for fiscal year 2005 to carry out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

''24316. Plan to assist families of passengers involved in rail passenger accidents.''.

SEC. 410. SYSTEMWIDE AMTRAK SECURITY UPGRADES.

(a) IN GENERAL—Subject to subsection (c), the Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants, through the Secretary of Transportation, to Amtrak—

(1) to secure major tunnel access points and ensure tunnel integrity in New York, Baltimore, and Washington, DC;

(2) to secure Amtrak trains;

(3) to secure Amtrak stations;

(4) to obtain a watch list identification system approved by the Under Secretary;

(5) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(6) to hire additional police and security officers, including canine units; and

(7) to expand emergency preparedness efforts.

(b) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless the projects are contained in a systemwide security plan approved by the Under Secretary, in consultation with the Secretary of Transportation, and, for capital projects, meet the requirements of section 407(e)(2). The plan shall include appropriate measures to address security awareness, emergency response, and passenger evacuation training.

(c) EQUITABLE GEOGRAPHIC ALLOCATION.—The Under Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(d) AVAILABILITY OF FUNDS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $63,500,000 for fiscal year 2005 for the purposes of carrying out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 411. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.

(a) SECURITY IMPROVEMENT GRANTS.—The Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants to freight railroads, the Alaska Railroad, hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, universities, colleges and research centers, State and local governments (for passenger facilities and infrastructure not owned by Amtrak), and, through the Secretary of Transportation, to Amtrak, for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security threats, including—

(1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations;

(2) accommodation of cargo or passenger screening equipment at the United States-Mexico border or the United States-Canada border;

(3) the security of hazardous material transportation by rail;

(4) secure intercity passenger rail stations, trains, and infrastructure;

(5) structural modification or replacement of rail cars transporting high hazard materials to improve their resistance to acts of terrorism;

(6) employee security awareness, preparedness, passenger evacuation, and emergency response training;

(7) public security awareness campaigns for passenger train operations;

(8) the sharing of intelligence and information about security threats;

(9) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(10) to hire additional police and security officers, including canine units; and

(11) other improvements recommended by the report required by section 402, including infrastructure, facilities, and equipment upgrades.

(b) ACCOUNTABILITY.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this Act and the priorities and other criteria developed by the Under Secretary.

(c) EQUITABLE ALLOCATION.—The Under Secretary shall equitably distribute the funds authorized by this section, taking into account geographic location, and shall encourage non-Federal financial participation in awarding grants. With respect to grants for passenger rail security, the Under Secretary shall also take into account passenger volume and whether a station is used by commuter rail passengers as well as intercity rail passengers.

(d) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless Amtrak meets the conditions set forth in section 410(b) of this Act.

(e) ALLOCATION BETWEEN RAILROADS AND OTHERS.—Unless as a result of the assessment required by section 402 the Under Secretary of Homeland Security for Border and Transportation Security determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made—

(1) in excess of $65,000,000 to Amtrak; or

(2) in excess of $100,000,000 for the purposes described in paragraphs (3) and (5) of subsection (a).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $350,000,000 for fiscal year 2005 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

(g) HIGH HAZARD MATERIALS DEFINED.—In this section, the term ''high hazard materials'' means poison inhalation hazard materials, Class 2.3 gases, Class 6.1 materials, and anhydrous ammonia.

SEC. 412. OVERSIGHT AND GRANT PROCEDURES.

(a) SECRETARIAL OVERSIGHT.—The Secretary of Transportation may use up to 0.5

percent of amounts made available to Amtrak for capital projects under the Rail Security Act of 2004 to enter into contracts for the review of proposed capital projects and related program management plans and to oversee construction of such projects.

(b) USE OF FUNDS.—The Secretary may use amounts available under subsection (a) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under subsection (a).

(c) PROCEDURES FOR GRANT AWARD.—The Under Secretary shall prescribe procedures and schedules for the awarding of grants under this Act, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Under Secretary. The Under Secretary shall issue a final rule establishing the procedures not later than 90 days after the date of enactment of this Act.

SEC. 413. RAIL SECURITY RESEARCH AND DEVELOPMENT.

(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Under Secretary of Homeland Security for Border and Transportation Security, in conjunction with the Secretary of Transportation, shall carry out a research and development program for the purpose of improving freight and intercity passenger rail security that may include research and development projects to—

(1) reduce the vulnerability of passenger trains, stations, and equipment to explosives and hazardous chemical, biological, and radioactive substances;

(2) test new emergency response techniques and technologies;

(3) develop improved freight technologies, including—

(A) technologies for sealing rail cars;

(B) automatic inspection of rail cars;

(C) communication-based train controls; and

(D) emergency response training;

(4) test wayside detectors that can detect tampering with railroad equipment;

(5) support enhanced security for the transportation of hazardous materials by rail, including—

(A) technologies to detect a breach in a tank car and transmit information about the integrity of tank cars to the train crew;

(B) research to improve tank car integrity, with a focus on tank cars that carry high hazard materials (as defined in section 411(g) of this Act; and

(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety; and

(6) other projects recommended in the report required by section 402.

(b) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Under Secretary of Homeland Security for Border and Transportation Security shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department and the Department of Transportation. The Under Secretary of Homeland Security for Border and Transportation Security shall carry out any research and development project authorized by this section through a reimbursable agreement with the Secretary of Transportation if the Secretary of Transportation—

(1) is already sponsoring a research and development project in a similar area; or

(2) has a unique facility or capability that would be useful in carrying out the project.

(c) ACCOUNTABILITY.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this Act and the priorities and other criteria developed by the Under Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $50,000,000 in each of fiscal years 2005 and 2006 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 414. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENTS.

(a) TRACK STANDARDS.—Within 90 days after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) require each track owner using continuous welded rail track to include procedures (in its procedures filed with the Administration pursuant to section 213.119 of title 49, Code of Federal Regulations) to improve the identification of cracks in rail joint bars;

(2) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the inspectors' areas of responsibility and require that inspectors use those programs when conducting track inspections; and

(3) establish a program to periodically review continuous welded rail joint bar inspection data from railroads and Administration track inspectors and, whenever the Administration determines that it is necessary or appropriate, require railroads to increase the frequency or improve the methods of inspection of joint bars in continuous welded rail.

(b) TANK CAR STANDARDS.—The Federal Railroad Administration shall—

(1) within 1 year after the date of enactment of this Act, validate the predictive model it is developing to quantify the relevant dynamic forces acting on railroad tank cars under accident conditions; and

(2) within 18 months after the date of enactment of this Act, initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars.

(c) OLDER TANK CAR IMPACT RESISTANCE ANALYSIS AND REPORT.—Within 2 years after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989; and

(2) transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure with recommendations for measures to eliminate or mitigate the risk of catastrophic failure.

SEC. 415. NORTHERN BORDER RAIL PASSENGER REPORT.

Within 180 days after the date of enactment of this Act, the Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the heads of other appropriate Federal departments and agencies and the National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that contains—

(1) a description of the current system for screening passengers and baggage on passenger rail service between the United States and Canada;

(2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in ''The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America'', dated January 18, 2001;

(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the ''Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States'', dated April 2, 2003;

(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;

(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing prescreened passenger lists for rail passengers travelling between the United States and Canada to the Department of Homeland Security;

(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers; and

(7) a draft of any changes in existing Federal law necessary to provide for pre-screening of such passengers and providing prescreened passenger lists to the Department of Homeland Security.

SEC. 416. REPORT REGARDING IMPACT ON SECURITY OF TRAIN TRAVEL IN COMMUNITIES WITHOUT GRADE SEPARATION.

(a) STUDY.—The Secretary of Homeland Security shall, in consultation with State and local government officials, conduct a study on the impact of blocked highway-railroad grade crossings on the ability of emergency responders, including ambulances and police, fire, and other emergency vehicles, to perform public safety and security duties in the event of a terrorist attack.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the findings of the study conducted under subsection (a) and recommendations for reducing the impact of blocked crossings on emergency response.

SEC. 417. WHISTLEBLOWER PROTECTION PROGRAM.

(a) IN GENERAL.—Subchapter A of chapter 201 of title 49, United States Code, is amended by inserting after section 20115 the following:

''§ 20116. Whistleblower protection for rail security matters

''(a) DISCRIMINATION AGAINST EMPLOYEE.—No rail carrier engaged in interstate or foreign commerce may discharge a railroad employee or otherwise discriminate against a railroad employee because the employee (or any person acting pursuant to a request of the employee)—

(1) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to a perceived threat to security; or

''(2) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding a perceived threat to security; or

''(3) refused to violate or assist in the violation of any law, rule or regulation related to rail security.

''(b) DISPUTE RESOLUTION.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved not later than 180 days after it is filed. If the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this subsection, the Board, division, delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than $20,000.

''(c) PROCEDURAL REQUIREMENTS.—Except as provided in subsection (b), the procedure set forth in section 42121(b)(2)(B) of this title, including the burdens of proof, applies to any complaint brought under this section.

''(d) ELECTION OF REMEDIES.—An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier.

''(e) DISCLOSURE OF IDENTITY.—

''(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section.

''(2) The Secretary shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 of title 49, United States Code, is amended by inserting after the item relating to section 20115 the following:

''20116. Whistleblower protection for rail security matters.''.

SA 3903. Mr. STEVENS (for himself, Mr. INOUYE, and Mr. WARNER) 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 115, strike line 15 and all that follows through page 115, line 25.

SA 3904. Mr. STEVENS (for himself and Mr. INOUYE) 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 DIRECTOR.

(a) INDEPENDENT ESTABLISHMENT.—There is a National Intelligence Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) INDIVIDUALS ELIGIBLE FOR NOMINATION.—Any individual nominated for appointment as National Intelligence Director shall have extensive national security expertise.

(c) PRINCIPAL DUTIES AND RESPONSIBILITIES.—The National Intelligence Director shall be the head of the National Counterterrorism Center and the coordinator of counterterrorism activities for programs and projects within the National Foreign Intelligence Program.

(d) SUPERVISION.—The National Intelligence Director shall report to the National Security Advisor on—

(1) the budget and programs of the National Counterterrorism Center;

(2) the activities of the Directorate of Intelligence of the National Counterterrorism Center under subsection (e);

(3) the planning and progress of joint counter-terrorism operations; and

(4) the coordination of activities across the National Foreign Intelligence Program on Counterterrorism activities.

(e) PRIMARY MISSIONS.—The primary missions of the National Counterterrorism Center shall be as follows:

(1) To develop and unify strategy for the civilian and military counterterrorism efforts of the United States Government.

(2) To integrate counterterrorism intelligence activities of the United States Government, both inside and outside the United States.

(3) To develop interagency counterterrorism plans, each of which shall—

(A) involve more than one department, agency, or element of the executive branch (unless otherwise directed by the President); and

(B) include the mission, objectives to be achieved, courses of action, parameters for such courses of action, coordination of agency strategic planning, recommendations for strategic planning, and assignment of departmental or agency responsibilities.

(4) To ensure that the collection of counterterrorism intelligence, and the conduct of counterterrorism operations, by the United States Government are informed by the analysis of all-source intelligence.

(f) DUTIES AND RESPONSIBILITIES OF NATIONAL INTELLIGENCE DIRECTOR.—Notwithstanding any other provision of law, at the direction of the President and the National Security Council, the National Intelligence Director shall—

(1) provide unified strategic direction for the civilian and military counterterrorism efforts of the United States Government and for the effective integration and deconfliction of counterterrorism intelligence and operations across agency boundaries, both inside and outside the United States;

(2) advise on the extent to which the counterterrorism program recommendations and budget proposals of the departments, agencies, and elements of the United States Government conform to the priorities established by the President and the National Security Council; and

(3) perform such other duties as the President or National Security Advisor may prescribe or are prescribed by law.

(g) ROLE OF DIRECTOR OF NATIONAL COUNTERTERRORISM CENTER IN CERTAIN APPOINTMENTS.—(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall consult with the National Intelligence Director before appointing an individual to fill the vacancy or recommending to the President an individual for nomination to fill the vacancy. If the Director does not concur in the recommendation, the head of the department or agency concerned may fill the vacancy or make the recommendation to the President (as the case may be) without the concurrence of the Director, but shall notify the President that the Director does not concur in the appointment or recommendation (as the case may be).

(2) Paragraph (1) applies to the following positions:

(A) The Director of the Counterterrorist Center of the Central Intelligence Agency.

(B) The Assistant Director of the Federal Bureau of Investigation in charge of the Counterterrorism Division.

(C) The Coordinator for Counterterrorism of the Department of State.

(h) DIRECTORATE OF INTELLIGENCE.—(1) The National Director of Intelligence shall establish and maintain within the National Counterterrorism Center a Directorate of Intelligence.

(2) The Directorate shall utilize the capabilities of the Terrorist Threat Integration Center and such other capabilities as the he considers appropriate.

(3) The Directorate shall have primary responsibility within the United States Government for analysis of terrorism and terrorist organizations from all sources of intelligence, whether collected inside or outside the United States.

(4) The Directorate shall—

(A) be the principal repository within the United States Government for all-source information on suspected terrorists, their organizations, and their capabilities;

(B) propose intelligence collection requirements for action by elements of the intelligence community inside and outside the United States;

(C) have primary responsibility within the United States Government for net assessments and warnings about terrorist threats, which assessments and warnings shall be based on a comparison of terrorist intentions and capabilities with assessed national vulnerabilities and countermeasures; and

(D) perform such other duties and functions as the Director of the National Counterterrorism Center may prescribe.

(i) DIRECTORATE OF PLANNING.—(1) The National Intelligence Director shall establish and maintain within the National Counterterrorism Center a Directorate of Planning.

(2) The Directorate shall have primary responsibility for developing interagency counterterrorism plans described in subsection (e)(3).

(3) The Directorate shall—

(A) provide guidance, and develop strategy and interagency plans, to counter terrorist activities based on policy objectives and priorities established by the National Security Council;

(B) develop interagency plans under subparagraph (A) utilizing information and recommendations obtained from personnel in other departments, agencies, and elements of the United States Government who have expertise in the priorities, functions, assets, programs, capabilities, and operations of such departments, agencies, and elements with respect to counterterrorism;

(C) assign responsibilities for counterterrorism operations to the Department of Defense, the Central Intelligence Agency, the Federal Bureau of Investigation, the Department of Homeland Security, and other departments and agencies of the United States Government, consistent with the authorities of such departments and agencies;

(D) monitor the implementation of operations assigned under subparagraph (C) and update interagency plans for such operations as necessary;

(E) report to the President and the National Intelligence Director on the compliance of the departments, agencies, and elements of the United States with the plans developed under subparagraph (A); and

(F) perform such other duties and functions as the President or the National Security Advisor may prescribe.

(4) The Directorate may not direct the execution of operations assigned under paragraph (3).

(j) STAFF.—(1) The National Intelligence Director may appoint deputy directors of the National Counterterrorism Center to oversee such portions of the operations of the Center as the National Intelligence Director considers appropriate.

(2) To assist in fulfilling the duties and responsibilities under this section, the National Intelligence Director shall employ in the National Counterterrorism Center a professional staff having an expertise in matters relating to such duties and responsibilities.

(3) In providing for a professional staff for the National Counterterrorism Center under paragraph (2), the National Intelligence Director may establish as positions in the excepted service such positions in the Center as the National Intelligence Director considers appropriate.

(4) The National Intelligence Director shall ensure that the analytical staff of the National Counterterrorism Center is composed primarily of experts from elements in the intelligence community and from such other personnel in the United States Government as the National Intelligence Director considers appropriate.

(5)(A) In order to meet the requirements in paragraph (4), the National Intelligence Director shall, from time to time—

(i) specify the transfers, assignments, and details of civilian personnel funded within the National Foreign Intelligence Program to the National Counterterrorism Center from any other element of the intelligence community that the National Intelligence Director considers appropriate; and

(ii) in the case of civilian personnel from a department, agency, or element of the United States Government and not funded within the National Foreign Intelligence Program, request the transfer, assignment, or detail of such civilian personnel from the department, agency, or other element concerned.

(B) The head of an element of the intelligence community shall promptly effectuate any transfer, assignment, or detail of civilian personnel specified by the National Intelligence Director under subparagraph (A)(i).

(C) The head of a department, agency, or element of the United States Government receiving a request for transfer, assignment, or detail of civilian personnel under subparagraph (A)(ii) shall, to the extent practicable, approve the request.

(6) Personnel employed in or assigned or detailed to the National Counterterrorism Center under this subsection shall be under the authority, direction, and control of the National Intelligence Director on all matters for which the Center has been assigned responsibility and for all matters related to the accomplishment of the missions of the Center.

(7) Performance evaluations of personnel assigned or detailed to the National Counterterrorism Center under this subsection shall be undertaken by the supervisors of such personnel at the Center.

(8) The supervisors of the staff of the National Counterterrorism Center may, with the approval of the National Intelligence Director, reward the staff of the Center for meritorious performance by the provision of such performance awards as the National Intelligence Director shall prescribe.

(9) The National Intelligence Director shall ensure that the staff of the National Counterterrorism Center has access to all databases maintained by the elements of the intelligence community that are relevant to the duties of the Center.

(k) SUPPORT AND COOPERATION OF OTHER AGENCIES.—(1) The elements of the intelligence community and the other departments, agencies, and elements of the United States Government shall support, assist, and cooperate with the National Counterterrorism Center in carrying out its missions under this section.

(2) The support, assistance, and cooperation of a department, agency, or element of the United States Government under this subsection shall include, but not be limited to—

(A) the implementation of interagency plans for operations, whether foreign or domestic, that are developed by the National Counterterrorism Center in a manner consistent with the laws and regulations of the United States and consistent with the limitation in subsection (i)(4);

(B) cooperative work with the National Intelligence Director of the National Counterterrorism Center to ensure that ongoing operations of such department, agency, or element do not conflict with joint operations planned by the Center;

(C) reports, upon request, to the National Intelligence Director on the progress of such department, agency, or element in implementing responsibilities assigned to such department, agency, or element through joint operations plans; and

(D) the provision to the analysts of the National Counterterrorism Center of electronic access in real time to information and intelligence collected by such department, agency, or element that is relevant to the missions of the Center.

(3) In the event of a disagreement between the National Intelligence Director and the head of a department, agency, or element of the United States Government on a plan developed or responsibility assigned by the National Counterterrorism Center under this subsection, the National Intelligence Director may either accede to the head of the department, agency, or element concerned or notify the National Security Advisor of the necessity of resolving the disagreement.

SEC. 2. NATIONAL INTELLIGENCE CENTERS.

(a) NATIONAL INTELLIGENCE CENTERS.—(1) The National Intelligence Director may establish one or more centers, at the direction of the President and with the concurrence of the Congress to address intelligence priorities established by the National Security Council. Each such center shall be known as a ''national intelligence center''.

(2) Each national intelligence center shall be assigned an area of intelligence responsibility.

(3) National intelligence centers shall be established at the direction of the President, as prescribed by law, or upon the initiative of the National Intelligence Director.

(b) ESTABLISHMENT OF CENTERS.—(1) In establishing a national intelligence center, the National Intelligence Director shall assign lead responsibility for administrative support for such center to an element of the intelligence community selected by the Director for that purpose.

(2) The Director shall determine the structure and size of each national intelligence center.

(3) The Director shall notify Congress of the establishment of each national intelligence center before the date of the establishment of such center.

(c) DIRECTORS OF CENTERS.—(1) Each national intelligence center shall have as its head a Director who shall be appointed by the National Intelligence Director for that purpose.

(2) The Director of a national intelligence center shall serve as the principal adviser to the National Intelligence Director on intelligence matters with respect to the area of intelligence responsibility assigned to the center.

(3) In carrying out duties under paragraph (2), the Director of a national intelligence center shall—

(A) manage the operations of the center;

(B) coordinate the provision of administration and support by the element of the intelligence community with lead responsibility for the center under subsection (b)(1);

(C) submit budget and personnel requests for the center to the National Intelligence Director;

(D) seek such assistance from other departments, agencies, and elements of the United States Government as is needed to fulfill the mission of the center; and

(E) advise the National Intelligence Director of the information technology, personnel, and other requirements of the center for the performance of its mission.

(4) The National Intelligence Director shall ensure that the Director of a national intelligence center has sufficient authority, direction, and control to effectively accomplish the mission of the center.

(d) MISSION OF CENTERS.—Pursuant to the direction of the National Intelligence Director, the Director of a national intelligence center shall, in the area of intelligence responsibility assigned to the center by the Director pursuant to intelligence priorities established by the National Security Council—

(1) have primary responsibility for providing all-source analysis of intelligence based upon foreign intelligence gathered both abroad and domestically;

(2) have primary responsibility for identifying and proposing to the National Intelligence Director intelligence collection and analysis requirements;

(3) have primary responsibility for net assessments and warnings;

(4) ensure that appropriate officials of the United States Government and other appropriate officials have access to a variety of intelligence assessments and analytical views; and

(5) perform such other duties as the National Intelligence Director shall specify.

(e) INFORMATION SHARING.—(1) The National Intelligence Director shall ensure that the Directors of the national intelligence centers and the other elements of the intelligence community undertake appropriate sharing of intelligence analysis and plans for operations in order to facilitate the activities of the centers.

(2) In order to facilitate information sharing under paragraph (1), the Directors of the national intelligence centers shall report directly to the National Intelligence Director regarding their activities under this section.

(f) STAFF.—(1) In providing for a professional staff for a national intelligence center, the National Intelligence Director may establish as positions in the excepted service such positions in the center as the National Intelligence Director considers appropriate.

(2)(A) The National Intelligence Director shall, from time to time—

(i) specify the transfers, assignments, and details of civilian personnel funded within the National Foreign Intelligence Program to a national intelligence center from any other element of the intelligence community that the National Intelligence Director considers appropriate; and

(ii) in the case of civilian personnel from a department, agency, or element of the United States Government not funded within the National Foreign Intelligence Program, request the transfer, assignment, or detail of such civilian personnel from the department, agency, or other element concerned.

(B)(i) The head of an element of the intelligence community shall promptly effectuate

any transfer, assignment, or detail of civilian personnel specified by the National Intelligence Director under subparagraph (A)(i).

(ii) The head of a department, agency, or element of the United States Government receiving a request for transfer, assignment, or detail of civilian personnel under subparagraph (A)(ii) shall, to the extent practicable, approve the request.

(3) Civilian personnel employed in or assigned or detailed to a national intelligence center under this subsection shall be under the authority, direction, and control of the Director of the center on all matters for which the center has been assigned responsibility and for all matters related to the accomplishment of the mission of the center.

(4) Performance evaluations of personnel assigned or detailed to a national intelligence center under this subsection shall be undertaken by the supervisors of such civilian personnel at the center.

(5) The supervisors of the staff of a national center may, with the approval of the National Intelligence Director, reward the staff of the center for meritorious performance by the provision of such performance awards as the National Intelligence Director shall prescribe.

(6) The National Intelligence Director may delegate to the Director of a national intelligence center any responsibility, power, or authority of the National Intelligence Director under paragraphs (1) through (5).

(7) The Director of a national intelligence center may recommend to the National Intelligence Director the reassignment to the home element concerned of any personnel previously assigned or detailed to the center from another element of the intelligence community.

(g) TERMINATION.—The National Intelligence Director, in coordination with the President and Congress, may terminate a national intelligence center if it is determined that the center is no longer required to meet an intelligence priority established by the National Security Council.

SEC. 3. TRANSFER OF TERRORIST THREAT INTEGRATION CENTER.

The Terrorist Threat Integration Center is transferred to the National Counterterrorism Center. All functions and activities discharged by the Terrorist Threat Integration Center as of the date of the enactment of this Act are transferred to the National Counterterrorism Center.

SEC. 4. FUTURE ACTIVITIES.

The President shall submit to the Congress, not later than 180 days after the date of the enactment of this Act, recommended legislation for further reforming the intelligence community. The recommended legislation may provide additional responsibilities for the National Intelligence Director.

SA 3905. Mr. LAUTENBERG 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:

At the appropriate place, insert the following:

TITLE —MARITIME TRANSPORTATION SECURITY

SEC. —01. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Maritime Transportation Security Act of 2004''.

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

Sec. —01. Short title; table of contents
Sec. —02. Enforcement; pier and wharf security costs.
Sec. —03. Security at foreign ports.
Sec. —04. Federal and State commercial maritime transportation training.
Sec. —05. Transportation worker background investigation programs.
Sec. —06. Report on cruise ship security.
Sec. —07. Maritime transportation security plan grants.
Sec. —08. Report on design of maritime security grant programs.
Sec. —09. Effective date.

SEC. —02. ENFORCEMENT; PIER AND WHARF SECURITY COSTS.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended—

(1) by redesignating the second section 70118 (relating to firearms, arrests, and seizure of property), as added by section 801(a) of the Coast Guard and Maritime Transportation Act of 2004, as section 70119;

(2) by redesignating the first section 70119 (relating to enforcement by State and local officers), as added by section 801(a) of the Coast Guard and Maritime Transportation Act of 2004, as section 70120;

(3) by redesignating the second section 70119 (relating to civil penalty), as redesignated by section 802(a)(1) of the Coast Guard and Maritime Transportation Act of 2004, as section 70123; and

(4) by inserting after section 70120 the following:

''§ 70121. Enforcement by injunction or withholding of clearance

''(a) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of this chapter or of regulations issued hereunder, for cause shown.

''(b) WITHHOLDING OF CLEARANCE.—

''(1) If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty or fine under section 70119, or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty under section 70119, the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

''(2) Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.

''§ 70122. Security of piers and wharfs

''(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall require imported merchandise, excluding merchandise entered temporarily under bond, remaining on the wharf or pier onto which it was unladen for more than 7 calendar days without entry being made to be removed from the wharf or pier and deposited in the public stores, a general order warehouse, or a centralized examination station where it shall be inspected for determination of contents, and thereafter a permit for its delivery may be granted.

''(b) PENALTY.—The Secretary may impose an administrative penalty of $5,000 on the importer for each bill of lading for general order merchandise remaining on a wharf or pier in violation of subsection (a), except that no penalty shall be imposed if the violation was a result of force majeure.''.

(b) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the items following the item relating to section 70116 and inserting the following:

''70117. In rem liability for civil penalties and certain costs
''70118. Withholding of clearance
''70119. Firearms, arrests, and seizure of property
''70120. Enforcement by State and local officers
''70121. Enforcement by injunction or withholding of clearance
''70122. Security of piers and wharfs
''70123. Civil penalty''.

(2) Section 70117(a) of title 46, United States Code, is amended by striking ''section 70120'' and inserting ''section 70123''.

(3) Section 70118(a) of such title is amended by striking ''under section 70120,'' and inserting ''under that section,''.

SEC. —03. SECURITY AT FOREIGN PORTS.

(a) IN GENERAL.—Section 70109 of title 46, United States Code, is amended—

(1) by striking ''The Secretary,'' in subsection (b) and inserting ''The Administrator of the Maritime Administration,''; and

(2) by adding at the end the following:

''(c) FOREIGN ASSISTANCE PROGRAMS.—The Administrator of the Maritime Administration, in coordination with the Secretary of State, shall identify foreign assistance programs that could facilitate implementation of port security antiterrorism measures in foreign countries. The Administrator and the Secretary shall establish a program to utilize those programs that are capable of implementing port security antiterrorism measures at ports in foreign countries that the Secretary finds, under section 70108, to lack effective antiterrorism measures.''.

(b) REPORT ON SECURITY AT PORTS IN THE CARIBBEAN BASIN.—Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives a report on the security of ports in the Caribbean Basin. The report shall include the following:

(1) An assessment of the effectiveness of the measures employed to improve security at ports in the Caribbean Basin and recommendations for any additional measures to improve such security.

(2) An estimate of the number of ports in the Caribbean Basin that will not be secured by July 2004, and an estimate of the financial impact in the United States of any action taken pursuant to section 70110 of title 46, United States Code, that affects trade between such ports and the United States.

(3) An assessment of the additional resources and program changes that are necessary to maximize security at ports in the Caribbean Basin.

SEC. —04. FEDERAL AND STATE COMMERCIAL MARITIME TRANSPORTATION TRAINING.

Section 109 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70101 note) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

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

''(c) FEDERAL AND STATE COMMERCIAL MARITIME TRANSPORTATION TRAINING.—The Secretary of Transportation shall establish a curriculum, to be incorporated into the curriculum developed under subsection (a)(1), to educate and instruct Federal and State officials on commercial maritime and intermodal transportation. The curriculum shall be designed to familiarize those officials with commercial maritime transportation in order to facilitate performance of their commercial maritime and intermodal transportation security responsibilities. In developing the standards for the curriculum, the

Secretary shall consult with each agency in the Department of Homeland Security with maritime security responsibilities to determine areas of educational need. The Secretary shall also coordinate with the Federal Law Enforcement Training Center in the development of the curriculum and the provision of training opportunities for Federal and State law enforcement officials at appropriate law enforcement training facilities.''.

SEC. —05. TRANSPORTATION WORKER BACKGROUND INVESTIGATION PROGRAMS.

Within 120 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the Secretary of Transportation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure—

(1) making recommendations (including legislative recommendations, if appropriate or necessary) for harmonizing, combining, or coordinating requirements, procedures, and programs for conducting background checks under section 70105 of title 46, United States Code, section 5103a(c) of title 49, United States Code, section 44936 of title 49, United States Code, and other provisions of Federal law or regulations requiring background checks for individuals engaged in transportation or transportation-related activities;

(2) setting forth a detailed timeline for implementation of such harmonization, combination, or coordination;

(3) setting forth a plan with a detailed timeline for the implementation of the Transportation Worker Identification Credential in seaports;

(4) making recommendations for a waiver and appeals process for issuing a transportation security card to an individual found otherwise ineligible for such a card under section 70105(c)(2) and (3) of title 46, United States Code, along with recommendations on the appropriate level of funding for such a process; and

(5) making recommendations for how information collected through the Transportation Worker Identification Credential program may be shared with port officials, terminal operators, and other officials responsible for maintaining access control while also protecting workers' privacy.

SEC. —06. REPORT ON CRUISE SHIP SECURITY.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the security of ships and facilities used in the cruise line industry.

(b) CONTENT.—The report required by subsection (a) shall include an assessment of security measures employed by the cruise line industry, including the following:

(1) An assessment of the security of cruise ships that originate at ports in foreign countries.

(2) An assessment of the security of ports utilized for cruise ship docking.

(3) The costs incurred by the cruise line industry to carry out the measures required by the Maritime Transportation Security Act of 2002 (Public Law 107–295; 116 Stat. 2064) and the amendments made by that Act.

(4) The costs of employing canine units and hand-held explosive detection wands at ports, including the costs of screening passengers and baggage with such methods.

(5) An assessment of security measures taken by the Secretary of Homeland Security to increase the security of the cruise line industry and the costs incurred to carry out such security measures.

(6) A description of the need for and the feasibility of deploying explosive detection systems and canine units at ports used by cruise ships and an assessment of the cost of such deployment.

(7) A summary of the fees paid by passengers of cruise ships that are used for inspections and the feasibility of creating a dedicated passenger vessel security fund from such fees.

(8) The recommendations of the Secretary, if any, for measures that should be carried out to improve security of cruise ships that originate at ports in foreign countries.

(9) The recommendations of the Secretary, if any, on the deployment of further measures to improve the security of cruise ships, including explosive detection systems, canine units, and the use of technology to improve baggage screening, and an assessment of the cost of implementing such measures.

SEC. —07. MARITIME TRANSPORTATION SECURITY PLAN GRANTS.

Section 70107(a) of title 46, United States Code, is amended to read as follows:

''(a) IN GENERAL.—The Under Secretary of Homeland Security for Border and Transportation Security shall establish a grant program for making a fair and equitable allocation of funds to implement Area Maritime Transportation Security Plans and to help fund compliance with Federal security plans among port authorities, facility operators, and State and local agencies required to provide security services. Grants shall be made on the basis of threat-based risk assessments, consistent with the national strategy for transportation security, subject to review and comment by the appropriate Federal Maritime Security Coordinators and the Maritime Administration. The grant program shall take into account national economic and strategic defense concerns and shall be coordinated with the Director of the Office of Domestic Preparedness to ensure that the grant process is consistent with other Department of Homeland Security grant programs.''.

SEC. —08. REPORT ON DESIGN OF MARITIME SECURITY GRANT PROGRAMS.

Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the design of maritime security grant programs that includes recommendations on—

(1) whether the grant programs should be discretionary or formula based and why;

(2) requirements for ensuring that Federal funds will not be substituted for grantee funds;

(3) targeting requirements to ensure that funding is directed in a manner that reflects a national, risk-based perspective on priority needs, the fiscal capacity of recipients to fund the improvements without grant funds, and an explicit analysis of the impact of minimum funding to small ports that could affect funding available for the most strategic or economically important ports;

(4) matching requirements to ensure that Federal funds provide an incentive to grantees for the investment of their own funds in the improvements financed in part by Federal funds; and

(5) the need for multiple year funding to provide funds for multiple year grant agreements.

SEC. —09. EFFECTIVE DATE.

Notwithstanding any other provision of this Act, this title takes effect on the date of enactment of this Act.

SA 3906. Mr. MCCAIN (for himself, Mr. LIEBERMAN, and Mr. BAYH) 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:

At the appropriate place, insert the following:

TITLE ____—THE ROLE OF DIPLOMACY, FOREIGN AID, AND THE MILITARY IN THE WAR ON TERRORISM

SEC. ___01. FINDINGS.

Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Long-term success in the war on terrorism demands the use of all elements of national power, including diplomacy, military action, intelligence, covert action, law enforcement, economic policy, foreign aid, public diplomacy, and homeland defense.

(2) To win the war on terrorism, the United States must assign to economic and diplomatic capabilities the same strategic priority that is assigned to military capabilities.

(3) The legislative and executive branches of the Government of the United States must commit to robust, long-term investments in all of the tools necessary for the foreign policy of the United States to successfully accomplish the goals of the United States.

(4) The investments referred to in paragraph (3) will require increased funding to United States foreign affairs programs in general, and to priority areas as described in this title in particular.

SEC. ___02. TERRORIST SANCTUARIES.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Complex terrorist operations require locations that provide such operations sanctuary from interference by government or law enforcement personnel.

(2) A terrorist sanctuary existed in Afghanistan before September 11, 2001.

(3) The terrorist sanctuary in Afghanistan provided direct and indirect value to members of al Qaeda who participated in the terrorist attacks on the United States on September 11, 2001, and in other terrorist operations.

(4) Terrorist organizations have fled to some of the least governed and most lawless places in the world to find sanctuary.

(5) During the 21st century, terrorists are focusing on remote regions and failing states as locations to seek sanctuary.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States Government should identify and prioritize locations that are or that could be used as terrorist sanctuaries;

(2) the United States Government should have a realistic strategy that includes the use of all elements of national power to keep possible terrorists from using a location as a sanctuary; and

(3) the United States Government should reach out, listen to, and work with countries in bilateral and multilateral fora to prevent locations from becoming sanctuaries and to prevent terrorists from using locations as sanctuaries.

SEC. ___03. ROLE OF PAKISTAN IN COUNTERING TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The Government of Pakistan has a critical role to perform in the struggle against Islamist terrorism.

(2) The endemic poverty, widespread corruption, and frequent ineffectiveness of government in Pakistan create opportunities for Islamist recruitment.

(3) The poor quality of education in Pakistan is particularly worrying, as millions of families send their children to madrassahs, some of which have been used as incubators for violent extremism.

(4) The vast unpoliced regions in Pakistan make the country attractive to extremists seeking refuge and recruits and also provide a base for operations against coalition forces in Afghanistan.

(5) A stable Pakistan, with a moderate, responsible government that serves as a voice of tolerance in the Muslim world, is critical to stability in the region.

(6) There is a widespread belief among the people of Pakistan that the United States has long treated them as allies of convenience.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should make a long-term commitment to fostering a stable and secure future in Pakistan, as long as its leaders remain committed to combatting extremists and extremism, ending the proliferation of weapons of mass destruction, securing its borders, and gaining internal control of all its territory while pursuing policies that strengthen civil society, promote moderation and advance socio-economic progress;

(2) Pakistan should make sincere efforts to transition to democracy, enhanced rule of law, and robust civil institutions, and United States policy toward Pakistan should promote such a transition;

(3) the United States assistance to Pakistan should be maintained at the overall levels requested by the President for fiscal year 2005;

(4) the United States should support the Government of Pakistan with a comprehensive effort that extends from military aid to support for better education;

(5) the United States Government should devote particular attention and resources to assisting in the improvement of the quality of education in Pakistan; and

(6) the Government of Pakistan should devote additional resources of such Government to expanding and improving modern public education in Pakistan.

SEC. ___04. AID TO AFGHANISTAN.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The United States and its allies in the international community have made progress in promoting economic and political reform within Afghanistan, including the establishment of a central government with a democratic constitution, a new currency, and a new army, the increase of personal freedom, and the elevation of the standard of living of many Afghans.

(2) A number of significant obstacles must be overcome if Afghanistan is to become a secure and prosperous democracy, and such a transition depends in particular upon—

(A) improving security throughout the country;

(B) disarming and demobilizing militias;

(C) curtailing the rule of the warlords;

(D) promoting equitable economic development;

(E) protecting the human rights of the people of Afghanistan;

(F) holding elections for public office; and

(G) ending the cultivation and trafficking of narcotics.

(3) The United States and the international community must make a long-term commitment to addressing the deteriorating security situation in Afghanistan and the burgeoning narcotics trade, endemic poverty, and other serious problems in Afghanistan in order to prevent that country from relapsing into a sanctuary for international terrorism.

(b) SENSE OF CONGRESS.—

(1) ACTIONS FOR AFGHANISTAN.—It is the sense of Congress that the Government of the United States should take, with respect to Afghanistan, the following actions:

(A) Working with other nations to obtain long-term security, political, and financial commitments and fulfillment of pledges to the Government of Afghanistan to accomplish the objectives of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.), especially to ensure a secure, democratic, and prosperous Afghanistan that respects the rights of its citizens and is free of international terrorist organizations.

(B) Using the voice and vote of the United States in relevant international organizations, including the North Atlantic Treaty Organization and the United Nations Security Council, to strengthen international commitments to assist the Government of Afghanistan in enhancing security, building national police and military forces, increasing counter-narcotics efforts, and expanding infrastructure and public services throughout the country.

(C) Taking appropriate steps to increase the assistance provided under programs of the Department of State and the United States Agency for International Development throughout Afghanistan and to increase the number of personnel of those agencies in Afghanistan as necessary to support the increased assistance.

(2) REVISION OF AFGHANISTAN FREEDOM SUPPORT ACT OF 2002.—It is the sense of Congress that Congress should, in consultation with the President, update and revise, as appropriate, the Afghanistan Freedom Support Act of 2002.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President for each of the fiscal years 2005 through 2009 such sums as may be necessary to provide assistance for Afghanistan, unless otherwise authorized by Congress, for the following purposes:

(A) For development assistance under sections 103, 105, and 106 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151a, 2151c, and 2151d).

(B) For children's health programs under the Child Survival and Health Program Fund under section 104 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b).

(C) For economic assistance under the Economic Support Fund under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.).

(D) For international narcotics and law enforcement under section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291).

(E) For nonproliferation, anti-terrorism, demining, and related programs.

(F) For international military education and training under section 541 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347).

(G) For Foreign Military Financing Program grants under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

(H) For peacekeeping operations under section 551 of the Foreign Assistance Act of 1961 (22 U.S.C. 2348).

(2) CONDITIONS FOR ASSISTANCE.—Assistance provided by the President under this subsection—

(A) shall be consistent with the Afghanistan Freedom Support Act of 2002; and

(B) shall be provided with reference to the ''Securing Afghanistan's Future'' document published by the Government of Afghanistan.

SEC. ___05. THE UNITED STATES-SAUDI ARABIA RELATIONSHIP.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Despite a long history of friendly relations with the United States, Saudi Arabia has been a problematic ally in combating Islamist extremism.

(2) Cooperation between the Governments of the United States and Saudi Arabia has traditionally been carried out in private.

(3) Counterterrorism cooperation between the Governments of the United States and Saudi Arabia has improved significantly since the terrorist bombing attacks in Riyadh, Saudi Arabia, on May 12, 2003, especially cooperation to combat terror groups operating inside Saudi Arabia.

(4) The Government of Saudi Arabia is now pursuing al Qaeda within Saudi Arabia and has begun to take some modest steps toward internal reform.

(5) Nonetheless, the Government of Saudi Arabia has been at times unresponsive to United States requests for assistance in the global war on Islamist terrorism.

(6) The Government of Saudi Arabia has not done all it can to prevent nationals of Saudi Arabia from funding and supporting extremist organizations in Saudi Arabia and other countries.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the problems in the relationship between the United States and Saudi Arabia must be confronted openly, and the opportunities for cooperation between the countries must be pursued openly by those governments;

(2) both governments must build a relationship that they can publicly defend and that is based on other national interests in addition to their national interests in oil;

(3) this relationship should include a shared commitment to political and economic reform in Saudi Arabia;

(4) this relationship should also include a shared interest in greater tolerance and respect for other cultures in Saudi Arabia and a commitment to fight the violent extremists who foment hatred in the Middle East; and

(5) the Government of Saudi Arabia must do all it can to prevent nationals of Saudi Arabia from funding and supporting extremist organizations in Saudi Arabia and other countries.

SEC. ___06. EFFORTS TO COMBAT ISLAMIST TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) While support for the United States has plummeted in the Islamic world, many negative views are uninformed, at best, and, at worst, are informed by coarse stereotypes and caricatures.

(2) Local newspapers in Islamic countries and influential broadcasters who reach Islamic audiences through satellite television often reinforce the idea that the people and Government of the United States are anti-Muslim.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Government of the United States should offer an example of moral leadership in the world that includes a commitment to

treat all people humanely, abide by the rule of law, and be generous to the people and governments of other countries;

(2) the United States should cooperate with governments of Islamic countries to foster agreement on respect for human dignity and opportunity, and to offer a vision of a better future that includes stressing life over death, individual educational and economic opportunity, widespread political participation, contempt for indiscriminate violence, respect for the rule of law, openness in discussing differences, and tolerance for opposing points of view;

(3) the United States should encourage reform, freedom, democracy, and opportunity for Arabs and Muslims and promote moderation in the Islamic world; and

(4) the United States should work to defeat extremist ideology in the Islamic world by providing assistance to moderate Arabs and Muslims to combat extremist ideas.

SEC. ___07. UNITED STATES POLICY TOWARD DICTATORSHIPS.

(a) FINDING.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that short-term gains enjoyed by the United States through cooperation with repressive dictatorships have often been outweighed by long-term setbacks for the stature and interests of the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) United States foreign policy should promote the value of life and the importance of individual educational and economic opportunity, encourage widespread political participation, condemn indiscriminate violence, and promote respect for the rule of law, openness in discussing differences among people, and tolerance for opposing points of view; and

(2) the United States Government must prevail upon the governments of all predominantly Muslim countries, including those that are friends and allies of the United States, to condemn indiscriminate violence, promote the value of life, respect and promote the principles of individual education and economic opportunity, encourage widespread political participation, and promote the rule of law, openness in discussing differences among people, and tolerance for opposing points of view.

SEC. ___08. PROMOTION OF UNITED STATES VALUES THROUGH BROADCAST MEDIA.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Although the United States has demonstrated and promoted its values in defending Muslims against tyrants and criminals in Somalia, Bosnia, Kosovo, Afghanistan, and Iraq, this message is not always clearly presented and understood in the Islamic world.

(2) If the United States does not act to vigorously define its message in the Islamic world, the image of the United States will be defined by Islamic extremists who seek to demonize the United States.

(3) Recognizing that many Arab and Muslim audiences rely on satellite television and radio, the United States Government has launched promising initiatives in television and radio broadcasting to the Arab world, Iran, and Afghanistan.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States must do more to defend and promote its values and ideals to the broadest possible audience in the Islamic world;

(2) United States efforts to defend and promote these values and ideals are beginning to ensure that accurate expressions of these values reach large audiences in the Islamic world and should be robustly supported;

(3) the United States Government could and should do more to engage the Muslim world in the struggle of ideas; and

(4) the United States Government should more intensively employ existing broadcast media in the Islamic world as part of this engagement.

(c) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to the President for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out United States Government broadcasting activities under the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.), the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.), and the Foreign Affairs Reform and Restructuring Act of 1998 (22 U.S.C. 6501 et seq.), and to carry out other activities under this section consistent with the purposes of such Acts, unless otherwise authorized by Congress.

SEC. ___09. EXPANSION OF UNITED STATES SCHOLARSHIP AND EXCHANGE PROGRAMS IN THE ISLAMIC WORLD.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Exchange, scholarship, and library programs are effective ways for the United States Government to promote internationally the values and ideals of the United States.

(2) Exchange, scholarship, and library programs can expose young people from other countries to United States values and offer them knowledge and hope.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should expand its exchange, scholarship, and library programs, especially those that benefit people in the Arab and Muslim worlds.

(c) AUTHORITY TO EXPAND EDUCATIONAL AND CULTURAL EXCHANGES.—The President is authorized to substantially expand the exchange, scholarship, and library programs of the United States, especially such programs that benefit people in the Arab and Muslim worlds.

(d) AVAILABILITY OF FUNDS.—Of the amounts authorized to be appropriated for educational and cultural exchange programs in each of the fiscal years 2005 through 2009, there is authorized to be made available to the Secretary of State such sums as may be necessary to carry out programs under this section, unless otherwise authorized by Congress.

SEC. ___10. INTERNATIONAL YOUTH OPPORTUNITY FUND.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Education that teaches tolerance, the dignity and value of each individual, and respect for different beliefs is a key element in any global strategy to eliminate Islamist terrorism.

(2) Education in the Middle East about the world outside that region is weak.

(3) The United Nations has rightly equated literacy with freedom.

(4) The international community is moving toward setting a concrete goal of reducing by half the illiteracy rate in the Middle East by 2010, through the implementation of education programs targeting women and girls and programs for adult literacy, and by other means.

(5) To be effective, efforts to improve education in the Middle East must also include—

(A) support for the provision of basic education tools, such as textbooks that translate more of the world's knowledge into local languages and local libraries to house such materials; and

(B) more vocational education in trades and business skills.

(6) The Middle East can benefit from some of the same programs to bridge the digital divide that already have been developed for other regions of the world.

(b) INTERNATIONAL YOUTH OPPORTUNITY FUND.—

(1) ESTABLISHMENT.—The President shall establish an International Youth Opportunity Fund to provide financial assistance for the improvement of public education in the Middle East.

(2) INTERNATIONAL PARTICIPATION.—The President shall seek the cooperation of the international community in establishing and generously supporting the Fund.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President for the establishment of the International Youth Opportunity Fund, in addition to any amounts otherwise available for such purpose, such sums as may be necessary for each of the fiscal years 2005 through 2009, unless otherwise authorized by Congress.

SEC. ___11. THE USE OF ECONOMIC POLICIES TO COMBAT TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) While terrorism is not caused by poverty, breeding grounds for terrorism are created by backward economic policies and repressive political regimes.

(2) Policies that support economic development and reform also have political implications, as economic and political liberties are often linked.

(3) The United States is working toward creating a Middle East Free Trade Area by 2013 and implementing a free trade agreement with Bahrain, and free trade agreements exist between the United States and Israel and the United States and Jordan.

(4) Existing and proposed free trade agreements between the United States and Islamic countries are drawing interest from other countries in the Middle East region, and Islamic countries can become full participants in the rules-based global trading system, as the United States considers lowering its barriers to trade with the poorest Arab countries.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) a comprehensive United States strategy to counter terrorism should include economic policies that encourage development, open societies, and opportunities for people to improve the lives of their families and to enhance prospects for their children's future;

(2) one element of such a strategy should encompass the lowering of trade barriers with the poorest countries that have a significant population of Arab or Muslim individuals;

(3) another element of such a strategy should encompass United States efforts to promote economic reform in countries that have a significant population of Arab or Muslim individuals, including efforts to integrate such countries into the global trading system; and

(4) given the importance of the rule of law in promoting economic development and attracting investment, the United States should devote an increased proportion of its assistance to countries in the Middle East to the promotion of the rule of law.

SEC. ___12. MIDDLE EAST PARTNERSHIP INITIATIVE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of the fiscal years 2005 through 2009 such sums as may be necessary for the Middle East Partnership Initiative, unless otherwise authorized by Congress.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, given the importance of the rule of law and economic reform to development in the Middle East, a significant portion of the funds authorized to be appropriated under subsection (a) should be made available to promote the rule of law in the Middle East.

SEC. ___13. COMPREHENSIVE COALITION STRATEGY FOR FIGHTING TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Almost every aspect of the counterterrorism strategy of the United States relies on international cooperation.

(2) Since September 11, 2001, the number and scope of United States Government contacts with foreign governments concerning counterterrorism have expanded significantly, but such contacts have often been ad hoc and not integrated as a comprehensive and unified approach.

(b) INTERNATIONAL CONTACT GROUP ON COUNTERTERRORISM.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that the President—

(A) should seek to engage the leaders of the governments of other countries in a process of advancing beyond separate and uncoordinated national counterterrorism strategies to develop with those other governments a comprehensive coalition strategy to fight Islamist terrorism; and

(B) to that end, should seek to establish an international counterterrorism policy contact group with the leaders of governments providing leadership in global counterterrorism efforts and governments of countries with sizable Muslim populations, to be used as a ready and flexible international means for discussing and coordinating the development of important counterterrorism policies by the participating governments.

(2) AUTHORITY.—The President is authorized to establish an international counterterrorism policy contact group with the leaders of governments referred to in paragraph (1) for purposes as follows:

(A) To develop in common with such other countries important policies and a strategy that address the various components of international prosecution of the war on terrorism, including policies and a strategy that address military issues, law enforcement, the collection, analysis, and dissemination of intelligence, issues relating to interdiction of travel by terrorists, counterterrorism-related customs issues, financial issues, and issues relating to terrorist sanctuaries.

(B) To address, to the extent (if any) that the President and leaders of other participating governments determine appropriate, such long-term issues as economic and political reforms that can contribute to strengthening stability and security in the Middle East.

SEC. ___14. TREATMENT OF FOREIGN PRISONERS.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Carrying out the global war on terrorism requires the development of policies with respect to the detention and treatment of captured international terrorists that are adhered to by all coalition forces.

(2) Article 3 of the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316) was specifically designed for cases in which the usual rules of war do not apply, and the minimum standards of treatment pursuant to such Article are generally accepted throughout the world as customary international law.

(b) POLICY.—The policy of the United States is as follows:

(1) It is the policy of the United States to treat all foreign persons captured, detained, interned or otherwise held in the custody of the United States (hereinafter ''prisoners'') humanely and in accordance with standards that the United States would consider legal if perpetrated by the enemy against an American prisoner.

(2) It is the policy of the United States that all officials of the United States are bound both in wartime and in peacetime by the legal prohibition against torture, cruel, inhuman or degrading treatment.

(3) If there is any doubt as to whether prisoners are entitled to the protections afforded by the Geneva Conventions, such prisoners shall enjoy the protections of the Geneva Conventions until such time as their status can be determined pursuant to the procedures authorized by Army Regulation 190–8, Section 1–6.

(4) It is the policy of the United States to expeditiously prosecute cases of terrorism or other criminal acts alleged to have been committed by prisoners in the custody of the United States Armed Forces at Guantanamo Bay, Cuba, in order to avoid the indefinite detention of prisoners, which is contrary to the legal principles and security interests of the United States.

(c) REPORTING.—The Department of Defense shall submit to the appropriate congressional committees:

(1) A quarterly report providing the number of prisoners who were denied Prisoner of War (POW) status under the Geneva Conventions and the basis for denying POW status to each such prisoner.

(2) A report setting forth—

(A) the proposed schedule for military commissions to be held at Guantanamo Bay, Cuba; and

(B) the number of individuals currently held at Guantanamo Bay, Cuba, the number of such individuals who are unlikely to face a military commission in the next six months, and each reason for not bringing such individuals before a military commission.

(3) All International Committee of the Red Cross reports, completed prior to the enactment of this Act, concerning the treatment of prisoners in United States custody at Guantanamo Bay, Cuba, Iraq, and Afghanistan. Such ICRC reports should be provided, in classified form, not later than 15 days after enactment of this Act.

(4) A report setting forth all prisoner interrogation techniques approved by officials of the United States.

(d) ANNUAL TRAINING REQUIREMENT.—The Department of Defense shall certify that all Federal employees and civilian contractors engaged in the handling or interrogating of prisoners have fulfilled an annual training requirement on the laws of war, the Geneva Conventions and the obligations of the United States under international humanitarian law.

(e) PROHIBITION ON TORTURE OR CRUEL, INHUMANE, OR DEGRADING TREATMENT OR PUNISHMENT.—

(1) IN GENERAL.—No prisoner shall be subject to torture or cruel, inhumane, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(2) RELATIONSHIP TO GENEVA CONVENTIONS.—Nothing in this section shall affect the status of any person under the Geneva Conventions or whether any person is entitled to the protections of the Geneva Conventions.

(f) RULES, REGULATIONS, AND GUIDELINES.—

(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary and the Director shall prescribe the rules, regulations, or guidelines necessary to ensure compliance with the prohibition in subsection (e)(1) by all personnel of the United States Government and by any person providing services to the United States Government on a contract basis.

(2) REPORT TO CONGRESS.—The Secretary and the Director shall submit to Congress the rules, regulations, or guidelines prescribed under paragraph (1), and any modifications to such rules, regulations, or guidelines—

(A) not later than 30 days after the effective date of such rules, regulations, guidelines, or modifications; and

(B) in a manner and form that will protect the national security interests of the United States.

(g) REPORTS ON POSSIBLE VIOLATIONS.—

(1) REQUIREMENT.—The Secretary and the Director shall each submit, on a timely basis and not less than twice each year, a report to Congress on the circumstances surrounding any investigation of a possible violation of the prohibition in subsection (e)(1) by United States Government personnel or by a person providing services to the United States Government on a contract basis.

(2) FORM OF REPORT.—A report required under paragraph (1) shall be submitted in a manner and form that—

(A) will protect the national security interests of the United States; and

(B) will not prejudice any prosecution of an individual involved in, or responsible for, a violation of the prohibition in subsection (e)(1).

(h) REPORT ON A COALITION APPROACH TOWARD THE DETENTION AND HUMANE TREATMENT OF CAPTURED TERRORISTS.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report describing the efforts of the United States Government to develop an approach toward the detention and humane treatment of captured international terrorists that will be adhered to by all countries that are members of the coalition against terrorism.

(i) DEFINITIONS.—In this section:

(1) CRUEL, INHUMANE, OR DEGRADING TREATMENT OR PUNISHMENT.—The term ''cruel, inhumane, or degrading treatment or punishment'' means the cruel, unusual, and inhumane treatment or punishment prohibited by the fifth amendment, eighth amendment, or fourteenth amendment to the Constitution.

(2) DIRECTOR.—The term ''Director'' means the National Intelligence Director.

(3) GENEVA CONVENTIONS.—The term ''Geneva Conventions'' means—

(A) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3114);

(B) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(C) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(D) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Defense.

(5) TORTURE.—The term ''torture'' has the meaning given that term in section 2340 of title 18, United States Code.

SEC. ___15. PROLIFERATION OF WEAPONS OF MASS DESTRUCTION.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Al Qaeda and other terror groups have tried to acquire or make weapons of mass destruction since 1994 or earlier.

(2) The United States doubtless would be a prime target for use of any such weapon by al Qaeda.

(3) Although the United States Government has supported the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs, nonproliferation experts continue to express deep concern about the adequacy of such efforts to secure weapons of mass destruction and related materials that still exist in Russia other countries of the former Soviet Union, and around the world.

(4) The cost of increased investment in the prevention of proliferation of weapons of mass destruction and related materials is greatly outweighed by the potentially catastrophic cost to the United States of the use of such weapons by terrorists.

(5) The Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs are the United States primary method of preventing the proliferation of weapons of mass destruction and related materials from Russia and the states of the former Soviet Union, but require further expansion, improvement, and resources.

(6) Better coordination is needed within the executive branch of government for the budget development, oversight, and implementation of the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs, and critical elements of such programs are operated by the Departments of Defense, Energy, and State.

(7) The effective implementation of the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs in the countries of the former Soviet Union is hampered by Russian behavior and conditions on the provision of assistance under such programs that are unrelated to bilateral cooperation on weapons dismantlement.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) maximum effort to prevent the proliferation of weapons of mass destruction and related materials, wherever such proliferation may occur, is warranted;

(2) the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs should be expanded, improved, accelerated, and better funded to address the global dimensions of the proliferation threat; and

(3) the Proliferation Security Initiative is an important counterproliferation program that should be expanded to include additional partners.

(c) COOPERATIVE THREAT REDUCTION, GLOBAL THREAT REDUCTION INITIATIVE, AND OTHER NONPROLIFERATION ASSISTANCE PROGRAMS.—In this section, the term ''Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs'' includes—

(1) the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 50 U.S.C. 2362 note);

(2) the activities for which appropriations are authorized by section 3101(a)(2) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1742);

(3) the Department of State program of assistance to science centers;

(4) the Global Threat Reduction Initiative of the Department of Energy; and

(5) a program of any agency of the Federal Government having the purpose of assisting any foreign government in preventing nuclear weapons, plutonium, highly enriched uranium, or other materials capable of sustaining an explosive nuclear chain reaction, or nuclear weapons technology from becoming available to terrorist organizations.

(d) STRATEGY AND PLAN.—

(1) STRATEGY.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress—

(A) a comprehensive strategy for expanding and strengthening the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs; and

(B) an estimate of the funding necessary to execute such strategy.

(2) PLAN.—The strategy required by paragraph (1) shall include a plan for securing the nuclear weapons and related materials that are the most likely to be acquired or sought by, and susceptible to becoming available to, terrorist organizations, including—

(A) a prioritized list of the most dangerous and vulnerable sites;

(B) measurable milestones for improving United States nonproliferation assistance programs;

(C) a schedule for achieving such milestones; and

(D) initial estimates of the resources necessary to achieve such milestones under such schedule.

SEC. ___16. FINANCING OF TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) While efforts to designate and freeze the assets of terrorist financiers have been relatively unsuccessful, efforts to target the relatively small number of al Qaeda financial facilitators have been valuable and successful.

(2) The death or capture of several important financial facilitators has decreased the amount of money available to al Qaeda, and has made it more difficult for al Qaeda to raise and move money.

(3) The capture of al Qaeda financial facilitators has provided a windfall of intelligence that can be used to continue the cycle of disruption.

(4) The United States Government has rightly recognized that information about terrorist money helps in understanding terror networks, searching them out, and disrupting their operations.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) a critical weapon in the effort to stop terrorist financing should be the targeting of terrorist financial facilitators by intelligence and law enforcement agencies; and

(2) efforts to track terrorist financing must be paramount in United States counter-terrorism efforts.

(c) REPORT ON TERRORIST FINANCING.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report evaluating the effectiveness of United States efforts to curtail the international financing of terrorism.

(2) CONTENTS.—The report required by paragraph (1) shall evaluate and make recommendations on—

(A) the effectiveness of efforts and methods to the identification and tracking of terrorist financing;

(B) ways to improve multinational and international governmental cooperation in this effort;

(C) ways to improve the effectiveness of financial institutions in this effort;

(D) the adequacy of agency coordination, nationally and internationally, including international treaties and compacts, in this effort and ways to improve that coordination; and

(E) recommendations for changes in law and additional resources required to improve this effort.

SEC. ___17. REPORT TO CONGRESS.

(a) REQUIREMENT FOR REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on the activities of the Government of the United States to carry out the provisions of this title.

(b) CONTENT.—The report required under this section shall include the following:

(1) TERRORIST SANCTUARIES.—A description of the strategy of the United States to address and, where possible, eliminate terrorist sanctuaries, including—

(A) a description of actual and potential terrorist sanctuaries, together with an assessment of the priorities of addressing and eliminating such sanctuaries;

(B) an outline of strategies for disrupting or eliminating the security provided to terrorists by such sanctuaries;

(C) a description of efforts by the United States Government to work with other countries in bilateral and multilateral fora to address or eliminate actual or potential terrorist sanctuaries and disrupt or eliminate the security provided to terrorists by such sanctuaries; and

(D) a description of long-term goals and actions designed to reduce the conditions that allow the formation of terrorist sanctuaries, such as supporting and strengthening host governments, reducing poverty, increasing economic development, strengthening civil society, securing borders, strengthening internal security forces, and disrupting logistics and communications networks of terrorist groups.

(2) SUPPORT FOR PAKISTAN.—A description of the efforts of the United States Government to support Pakistan and encourage moderation in that country, including—

(A) an examination of the desirability of establishing a Pakistan Education Fund to direct resources toward improving the quality of secondary schools in Pakistan, and an examination of the efforts of the Government of Pakistan to fund modern public education;

(B) recommendations on the funding necessary to provide various levels of educational support;

(C) an examination of the current composition and levels of United States military aid to Pakistan, together with any recommendations for changes in such levels and composition that the President considers appropriate; and

(D) an examination of other major types of United States financial support to Pakistan, together with any recommendations for changes in the levels and composition of such support that the President considers appropriate.

(3) SUPPORT FOR AFGHANISTAN.—

(A) SPECIFIC OBJECTIVES.—A description of the strategy of the United States to provide aid to Afghanistan during the 5-year period beginning on the date of enactment of this Act, including a description of the resources necessary during the next 5 years to achieve specific objectives in Afghanistan in the following areas:

(i) Fostering economic development.

(ii) Curtailing the cultivation of opium.

(iii) Achieving internal security and stability.

(iv) Eliminating terrorist sanctuaries.

(v) Increasing governmental capabilities.

(vi) Improving essential infrastructure and public services.

(vii) Improving public health services.

(viii) Establishing a broad-based educational system.

(ix) Promoting democracy and the rule of law.

(x) Building national police and military forces.

(B) PROGRESS.—A description of—

(i) the progress made toward achieving the objectives described in clauses (i) through (x) of subparagraph (A); and

(ii) any shortfalls in meeting such objectives and the resources needed to fully achieve such objectives.

(4) COLLABORATION WITH SAUDI ARABIA.—A description of the strategy of the United States for expanding collaboration with the Government of Saudi Arabia on subjects of mutual interest and of importance to the United States, including a description of—

(A) the utility of the President undertaking a periodic, formal, and visible high-level dialogue between senior United States Government officials of cabinet level or higher rank and their counterparts in the Government of Saudi Arabia to address challenges in the relationship between the two governments and to identify areas and mechanisms for cooperation;

(B) intelligence and security cooperation between the United States and Saudi Arabia in the fight against Islamist terrorism;

(C) ways to advance Saudi Arabia's contribution to the Middle East peace process;

(D) political and economic reform in Saudi Arabia and throughout the Middle East;

(E) ways to promote greater tolerance and respect for cultural and religious diversity in Saudi Arabia and throughout the Middle East; and

(F) ways to assist the Government of Saudi Arabia in preventing nationals of Saudi Arabia from funding and supporting extremist groups in Saudi Arabia and other countries.

(5) STRUGGLE OF IDEAS IN THE ISLAMIC WORLD.—A description of a cohesive, long-term strategy of the United States to help win the struggle of ideas in the Islamic world, including the following:

(A) A description of specific goals related to winning this struggle of ideas.

(B) A description of the range of tools available to the United States Government to accomplish such goals and the manner in which such tools will be employed.

(C) A list of benchmarks for measuring success and a plan for linking resources to the accomplishment of such goals.

(D) A description of any additional resources that may be necessary to help win this struggle of ideas.

(E) Any recommendations for the creation of, and United States participation in, international institutions for the promotion of democracy and economic diversification in the Islamic world, and intraregional trade in the Middle East.

(F) An estimate of the level of United States financial assistance that would be sufficient to convince United States allies and people in the Islamic world that engaging in the struggle of ideas in the Islamic world is a top priority of the United States and that the United States intends to make a substantial and sustained commitment toward winning this struggle.

(6) OUTREACH THROUGH BROADCAST MEDIA.—A description of a cohesive, long-term strategy of the United States to expand its outreach to foreign Muslim audiences through broadcast media, including the following:

(A) The initiatives of the Broadcasting Board of Governors with respect to outreach to foreign Muslim audiences.

(B) An outline of recommended actions that the United States Government should take to more regularly and comprehensively present a United States point of view through indigenous broadcast media in countries with sizable Muslim populations, including increasing appearances by United States Government officials, experts, and citizens.

(C) An assessment of potential incentives for, and costs associated with, encouraging United States broadcasters to dub or subtitle into Arabic and other relevant languages their news and public affairs programs broadcast in the Muslim world in order to present those programs to a much broader Muslim audience than is currently reached.

(D) Any recommendations the President may have for additional funding and legislation necessary to achieve the objectives of the strategy.

(7) VISAS FOR PARTICIPANTS IN UNITED STATES PROGRAMS.—A description of—

(A) any recommendations for expediting the issuance of visas to individuals who are entering the United States for the purpose of participating in a scholarship, exchange, or visitor program described in subsection (c) of section ___09 without compromising the security of the United States; and

(B) a proposed schedule for implementing any recommendations described in subparagraph (A).

(8) BASIC EDUCATION IN MUSLIM COUNTRIES.—A description of a strategy, that was developed after consultation with nongovernmental organizations and individuals involved in education assistance programs in developing countries, to promote free universal basic education in the countries of the Middle East and in other countries with significant Muslim populations designated by the President. The strategy shall include the following elements:

(A) A description of the manner in which the resources of the United States and the international community shall be used to help achieve free universal basic education in such countries, including—

(i) efforts of the United states to coordinate an international effort;

(ii) activities of the United States to leverage contributions from members of the Group of Eight or other donors; and

(iii) assistance provided by the United States to leverage contributions from the private sector and civil society organizations.

(B) A description of the efforts of the United States to coordinate with other donors to reduce duplication and waste at the global and country levels and to ensure efficient coordination among all relevant departments and agencies of the Government of the United States.

(C) A description of the strategy of the United States to assist efforts to overcome challenges to achieving free universal basic education in such countries, including strategies to target hard to reach populations to promote education.

(D) A listing of countries that the President determines are eligible for assistance under the International Youth Opportunity Fund described in section ___10 and related programs.

(E) A description of the efforts of the United States to encourage countries in the Middle East and other countries with significant Muslim populations designated by the President to develop and implement a national education plan.

(F) A description of activities carried out as part of the International Youth Opportunity Fund to help close the digital divide and expand vocational and business skills in such countries.

(G) An estimate of the funds needed to achieve free universal basic education by 2015 in each country described in subparagraph (D), and an estimate of the amount that has been expended by the United States and by each such country during the previous fiscal year.

(H) A description of the United States strategy for garnering programmatic and financial support from countries in the Middle East and other countries with significant Muslim populations designated by the President, international organizations, and other countries that share the objectives of the International Youth and Opportunity Fund.

(9) ECONOMIC REFORM.—A description of the efforts of the United States Government to encourage development and promote economic reform in countries that have a significant population of Arab or Muslim individuals, including a description of—

(A) efforts to integrate countries with significant populations of Arab or Muslim individuals into the global trading system; and

(B) actions that the United States Government, acting alone and in partnership with governments in the Middle East, can take to promote intraregional trade and the rule of law in the region.

SEC. ___18. EFFECTIVE DATE.

Notwithstanding section 341 or any other provision of this Act, this title shall take effect on the date of the enactment of this Act.

SA 3907. Mr. REID (for Mr. LAUTENBERG) submitted an amendment intended to be proposed by Mr. REID 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:

At the appropriate place, insert the following:

SEC. ___. TERRORIST FINANCING.

(a) CLARIFICATION OF CERTAIN ACTIONS UNDER IEEPA.—In any case in which the President takes action under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to prohibit a United States person from engaging in transactions with a foreign country, where a determination has been made by the Secretary of State that the government of that country has repeatedly provided support for acts of international terrorism, such action shall apply to any foreign subsidiaries or affiliate, including any permanent foreign establishment of that United States person, that is controlled in fact by that United States person.

(b) DEFINITIONS.—In this section:

(1) CONTROLLED IN FACT.—The term ''is controlled in fact'' includes—

(A) in the case of a corporation, holds at least 50 percent (by vote or value) of the capital structure of the corporation; and

(B) in the case of any other kind of legal entity, holds interests representing at least 50 percent of the capital structure of the entity.

(2) UNITED STATES PERSON.—The term ''United States person'' includes any United States citizen, permanent resident alien, entity organized under the law of the United States (including foreign branches), wherever located, or any other person in the United States.

(c) APPLICABILITY.—

(1) IN GENERAL.—In any case in which the President has taken action under the International Emergency Economic Powers Act and such action is in effect on the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 100 days after the date of enactment of this Act.

(2) ACTIONS AFTER DATE OF ENACTMENT.—In any case in which the President takes action under the International Emergency Economic Powers Act on or after the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 90 days after the date of such action.

SEC. ___. NOTIFICATION OF CONGRESS OF TERMINATION OF INVESTIGATION BY OFFICE OF FOREIGN ASSETS CONTROL.

(a) NOTIFICATION REQUIREMENT.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

''Sec. 42. Notification of Congress of termination of investigation by Office of Foreign Assets Control.''.

''The Director of the Office of Foreign Assets Control shall notify Congress upon the termination of any investigation by the Office of Foreign Assets Control of the Department of the Treasury if any sanction is imposed by the Director of such office as a result of the investigation.''.

SA 3908. Mr. REED (for himself, Mr. SARBANES, Mr. SCHUMER, Mrs. BOXER, and Mr. CORZINE) 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 213, after line 12, add the following:

TITLE IV—PUBLIC TRANSPORTATION TERRORISM PREVENTION

SEC. 401. SHORT TITLE.

This title may be cited as the ''Public Transportation Terrorism Prevention Act of 2004''.

SEC. 402. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) throughout the world, public transportation systems have been a primary target of terrorist attacks, causing countless death and injuries;

(2) 6,000 public transportation agencies operate in the United States;

(3) 14,000,000 people in the United States ride public transportation each work day;

(4) safe and secure public transportation systems are essential to the Nation's economy and for significant national and international public events;

(5) the Federal Transit Administration has invested $68,700,000,000 since 1992 for construction and improvements to the Nation's public transportation systems;

(6) the Federal Government appropriately invested $11,000,000,000 in fiscal years 2002 and 2003 to protect our Nation's aviation system and its 1,800,000 daily passengers;

(7) the Federal Government invested $115,000,000 in fiscal years 2003 and 2004 to protect public transportation systems in the United States;

(8) the Federal Government has invested $9.16 in aviation security improvements per passenger, but only $0.006 in public transportation security improvements per passenger;

(9) the General Accounting Office, the Mineta Institute for Surface Transportation Policy Studies, the American Public Transportation Association, and other experts have reported an urgent need for significant investment in transit security improvements; and

(10) the Federal Government has a duty to deter and mitigate, to the greatest extent practicable, threats against the Nation's public transportation systems.

SEC. 403. MEMORANDUM OF UNDERSTANDING.

(a) IN GENERAL.—Not later than 45 days after the date of enactment of this Act, the Secretary of Transportation shall enter into a memorandum of understanding with the Secretary of Homeland Security to define and clarify the respective public transportation security roles and responsibilities of the Department of Transportation and the Department of Homeland Security.

(b) CONTENTS.—The memorandum of understanding described in subsection (a) shall—

(1) establish a process to develop security standards for public transportation agencies;

(2) establish funding priorities for grants from the Department of Homeland Security to public transportation agencies;

(3) create a method of direct coordination with public transportation agencies on security matters;

(4) address any other issues determined to be appropriate by the Secretary of Transportation and the Secretary of Homeland Security; and

(5) include a formal and permanent mechanism to ensure coordination and involvement by the Department of Transportation, as appropriate, in public transportation security.

SEC. 404. SECURITY ASSESSMENTS.

(a) PUBLIC TRANSPORTATION SECURITY ASSESSMENTS.—

(1) SUBMISSION.—Not later than 30 days after the date of enactment of this Act, the Federal Transit Administration of the Department of Transportation shall submit all public transportation security assessments and all other relevant information to the Department of Homeland Security.

(2) REVIEW.—The Secretary of Homeland Security shall review and augment the security assessments received under paragraph (1).

(3) ALLOCATIONS.—The assessments described in paragraph (1) shall be used as the basis for allocating grant funds under section 405, unless the Secretary of Homeland Security determines that an adjustment is necessary to respond to an urgent threat or other significant factors, after notification to the Committee on Banking, Housing, and Urban Affairs of the Senate.

(4) SECURITY IMPROVEMENT PRIORITIES.—The Secretary of Homeland Security shall establish security improvement priorities, in consultation with the management and employee representatives of each public transportation system receiving an assessment that will be used by public transportation agencies for any funding provided under section 405.

(5) UPDATES.—The Secretary of Homeland Security shall annually update the assessments referred to in this subsection and conduct assessments of all transit agencies considered to be at greatest risk of a terrorist attack.

(b) USE OF ASSESSMENT INFORMATION.—The Secretary of Homeland Security shall use the information collected under subsection (a)—

(1) to establish the process for developing security guidelines for public transportation security;

(2) to design a security improvement strategy that minimizes terrorist threats to public transportation systems; and

(3) to design a security improvement strategy that maximizes the efforts of public transportation systems to mitigate damage from terrorist attacks.

(c) BUS PUBLIC TRANSPORTATION SYSTEMS.—The Secretary of Homeland Security shall conduct assessments of local bus-only public transportation systems to determine the specific needs of this form of public transportation that are appropriate to the size and nature of the bus system.

(d) RURAL PUBLIC TRANSPORTATION SYSTEMS.—The Secretary of Homeland Security shall conduct assessments of selected public transportation systems that receive funds under section 5311 of title 49, United States Code, to determine the specific needs of this form of public transportation that are appropriate to the size and nature of the system.

SEC. 405. SECURITY ASSISTANCE GRANTS.

(a) CAPITAL SECURITY ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary of Homeland Security shall award grants directly to public transportation agencies for allowable capital security improvements based on the priorities established under section 404(a)(4).

(2) ALLOWABLE USE OF FUNDS.—Grants awarded under paragraph (1) may be used for—

(A) tunnel protection systems;

(B) perimeter protection systems;

(C) redundant critical operations control systems;

(D) chemical, biological, radiological, or explosive detection systems;

(E) surveillance equipment;

(F) communications equipment;

(G) emergency response equipment;

(H) fire suppression and decontamination equipment;

(I) global positioning or automated vehicle locator type system equipment;

(J) evacuation improvements; and

(K) other capital security improvements.

(b) OPERATIONAL SECURITY ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary of Homeland Security shall award grants directly to public transportation agencies for allowable operational security improvements based on the priorities established under section 404(a)(4).

(2) ALLOWABLE USE OF FUNDS.—Grants awarded under paragraph (1) may be used for—

(A) security training for transit employees, including bus and rail operators, mechanics, customer service, maintenance employees, transit police, and security personnel;

(B) live or simulated drills;

(C) public awareness campaigns for enhanced public transportation security;

(D) canine patrols for chemical, biological, or explosives detection;

(E) overtime reimbursement for enhanced security personnel during significant national and international public events, consistent with the priorities established under section 404(a)(4); and

(F) other appropriate security improvements identified under section 404(a)(4), excluding routine, ongoing personnel costs.

(c) CONGRESSIONAL NOTIFICATION.—Not later than 3 days before any grant is awarded under this section, the Secretary of Homeland Security shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate of the intent to award such grant.

(d) TRANSIT AGENCY RESPONSIBILITIES.—Each public transportation agency that receives a grant under this section shall—

(1) identify a security coordinator to coordinate security improvements;

(2) develop a comprehensive plan that demonstrates the agency's capacity for operating and maintaining the equipment purchased under this subsection; and

(3) report annually to the Department of Homeland Security on the use of grant funds received under this section.

(e) RETURN OF MISSPENT GRANT FUNDS.—If the Secretary of Homeland Security determines that a grantee used any portion of the grant funds received under this section for a purpose other than the allowable uses specified for that grant under this section, the grantee shall return any amount so used to the Treasury of the United States.

SEC. 406. INTELLIGENCE SHARING.

(a) INTELLIGENCE SHARING.—The Secretary of Homeland Security shall ensure that the Department of Transportation receives appropriate and timely notification of all credible terrorist threats against public transportation assets in the United States.

(b) INFORMATION SHARING ANALYSIS CENTER.—

(1) ESTABLISHMENT.—The Department of Homeland Security shall fund the reasonable costs of the Information Sharing and Analysis Center for Public Transportation (referred to in this subsection as the ''ISAC'') established pursuant to Presidential Directive 63 to protect critical infrastructure.

(2) PUBLIC TRANSPORTATION AGENCY PARTICIPATION.—The Secretary of Homeland Security—

(A) shall require those public transportation agencies that the Secretary determines to be at significant risk of terrorist attack to participate in the ISAC;

(B) shall encourage all other public transportation agencies to participate in the ISAC; and

(C) shall not charge any public transportation agency a fee for participation in the ISAC.

SEC. 407. RESEARCH, DEVELOPMENT, AND DEMONSTRATION GRANTS.

(a) GRANTS AUTHORIZED.—The Secretary of Homeland Security, in consultation with the Federal Transit Administration, shall award grants to public or private entities to conduct research into, and demonstration of, technologies and methods to reduce and deter terrorist threats or mitigate damages resulting from terrorist attacks against public transportation systems.

(b) USE OF FUNDS.—Grants awarded under subsection (a) may be used for—

(1) researching chemical, biological, radiological, or explosive detection systems that do not significantly impede passenger access;

(2) researching imaging technologies;

(3) conducting product evaluations and testing; and

(4) researching other technologies or methods for reducing or deterring terrorist attacks against public transportation systems, or mitigating damage from such attacks.

(c) REPORTING REQUIREMENT.—Each entity that receives a grant under this section shall report annually to the Department of Homeland Security on the use of grant funds received under this section.

(d) RETURN OF MISSPENT GRANT FUNDS.—If the Secretary of Homeland Security determines that a grantee used any portion of the grant funds received under this section for a purpose other than the allowable uses specified under subsection (b), the grantee shall return any amount so used to the Treasury of the United States.

SEC. 408. REPORTING REQUIREMENTS.

(a) ANNUAL REPORT TO CONGRESS.—Not later than March 31 of each year, the Secretary of Homeland Security shall submit a report, which describes the implementation of sections 404 through 407, and the state of public transportation security in the United States, to—

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

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

(3) the Committee on Appropriations of the Senate.

(b) ANNUAL REPORT TO GOVERNORS.—Not later than March 31 of each year, the Secretary of Homeland Security shall submit a report to the governor of each State in which a transit agency that has received a grant under this title is operating that specifies the amount of grant funds distributed to each such transit agency and the use of such grant funds.

SEC. 409. AUTHORIZATION OF APPROPRIATIONS.

(a) CAPITAL SECURITY ASSISTANCE PROGRAM.—There are authorized to be appropriated $2,370,000,000 for fiscal year 2005 to carry out the provisions of section 405(a), which shall remain available until expended.

(b) OPERATIONAL SECURITY ASSISTANCE PROGRAM.—There are authorized to be appropriated to carry out the provisions of section 405(b)—

(1) $534,000,000 for fiscal year 2005;

(2) $333,000,000 for fiscal year 2006; and

(3) $133,000,000 for fiscal year 2007.

(c) INTELLIGENCE.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section 406.

(d) RESEARCH.—There are authorized to be appropriated $130,000,000 for fiscal year 2005 to carry out the provisions of section 407, which shall remain available until expended.

SEC. 410. EFFECTIVE DATE; SUNSET PROVISION.

(a) EFFECTIVE DATE.—Notwithstanding section 341, this title, and the amendments made by this title, shall take effect on the date of enactment of this Act.

(b) SUNSET PROVISION.—This title is repealed on October 1, 2007.

SA 3909. Ms. SNOWE (for herself, Mr. ROBERTS, Ms. MIKULSKI, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her 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 60, line 20, strike ''the relationships among''.

On page 63, line 8, strike ''the relationships among''.

On page 64, line 5, strike ''and'' at the end.

On page 64, between lines 5 and 6, insert the following:

(4) to evaluate the compliance of the National Intelligence Authority and the National Intelligence Program with any applicable United States law or regulation, including any applicable regulation, policy, or procedure issued under section 206, or with any regulation, policy, or procedure of the Director governing the sharing or dissemination of, or access to, intelligence information or products; and

On page 64, line 6, strike ''(4)'' and insert ''(5)''.

On page 65, strike lines 11 through 16 and insert the following:

(2)(A) The Inspector General shall have access to any employee, or any employee of a contractor, of any element of the intelligence community whose testimony is needed for the performance of the duties of the Inspector General.

On page 66, beginning on line 1, strike ''or contractor of the National Intelligence Authority'' and insert ', or any employee of a contractor, of any element of the intelligence community''.

On page 66, line 4, strike ''Director'' and insert ''National Intelligence Director or other appropriate official of the intelligence community''.

On page 68, between lines 7 and 8, insert the following:

(g) COORDINATION AMONG INSPECTORS GENERAL WITHIN NATIONAL INTELLIGENCE PROGRAM.—(1) In the event of a matter within the jurisdiction of the Inspector General of the National Intelligence Authority that may be subject to an investigation, inspection, or audit by both the Inspector General of the National Intelligence Authority and an Inspector General, whether statutory or administrative, with oversight responsibility for an element or elements of the intelligence community, the Inspector General of the National Intelligence Authority and such other Inspector or Inspectors General shall expeditiously resolve which Inspector General shall conduct such investigation, inspection, or audit. The Inspector General of the National Intelligence Authority shall make the final decision on the resolution of such jurisdiction.

(2) The Inspector General conducting an investigation, inspection, or audit covered by paragraph (1) shall submit the results of such investigation, inspection, or audit to any other Inspector General with jurisdiction to conduct such investigation, inspection, or audit who did not conduct such investigation, inspection, or audit.

(3) If an investigation, inspection, or audit covered by paragraph (1) is conducted by an Inspector General other than the Inspector General of the National Intelligence Authority, the Inspector General of the National Intelligence Authority may, upon completion of such investigation, inspection, or audit by such Inspector General, conduct a separate investigation, inspection, or audit of the matter concerned under this section.

On page 68, line 8, strike ''(g)'' and insert ''(h)''.

On page 69, between lines 20 and 21, insert the following:

(C) Each Inspector General of an element of the intelligence community shall comply fully with a request for information or assistance from the Inspector General of the National Intelligence Authority.

(D) The Inspector General of the National Intelligence Authority may, upon reasonable notice to the head of any element of the intelligence community, conduct, as authorized by this section, an investigation, inspection, or audit of such element and may enter into any place occupied by such element for purposes of the performance of the duties of the Inspector General.

On page 69, line 21, strike ''(h)'' and insert ''(i)''.

On page 70, line 13, strike ''Authority'' and insert ''Program''.

On page 71, line 1, strike ''An assessment'' and insert ''In consultation with the Officer for Civil Rights and Civil Liberties of the National Intelligence Authority and the Privacy Officer of the National Intelligence Authority, an assessment''.

On page 71, beginning on line 16, strike ''Authority'' and insert ''Authority or the National Intelligence Program, or in the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community,''.

On page 72, beginning on line 3, strike ''a relationship between''.

On page 72, strike lines 19 through 25 and insert the following:

(B) an investigation, inspection, review, or audit carried out by the Inspector General

focuses on any current or former official of the intelligence community who—

(i) holds or held a position in an element of the intelligence community that is subject to appointment by the President, by and with the advice and consent of the Senate, including an appointment held on an acting basis; or

(ii) holds or held a position in an element of the intelligence community, including a position held on an acting basis, that is appointed by the National Intelligence Director;

On page 73, strike line 24 and all that follows through page 74, line 5, and insert the following:

(5)(A) An employee of an element of the intelligence community, an employee assigned or detailed to an element of the intelligence community, or an employee of a contractor of an element of the intelligence community who intends to report to Congress a complaint or information with respect to an urgent concern may report such a complaint or information to the Inspector General.

On page 77, line 8, strike ''the Authority'' and insert ''an element of the intelligence community''.

On page 77, between lines 11 and 12, insert the following:

(j) CONSTRUCTION OF DUTIES REGARDING ELEMENTS OF INTELLIGENCE COMMUNITY.—Except as resolved pursuant to subsection (g), the performance by the Inspector General of the National Intelligence Authority of any duty, responsibility, or function regarding an element of the intelligence community shall not be construed to modify or effect the duties and responsibilities of any other Inspector General having duties or responsibilities relating to such element.

On page 77, line 12, strike ''(i)'' and insert ''(k)''.

SA 3910. Ms. SNOWE submitted an amendment intended to be proposed by her 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:

At the appropriate place, insert the following:

SEC. ___. REPORT ON INTERNATIONAL AIR CARGO THREATS.

(a) REPORT.—Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in coordination with the Secretary of Defense and the Administrator of the Federal Aviation Administration, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains the following:

(1) A description of the current procedures in place to address the threat of an inbound all-cargo aircraft from outside the United States that intelligence sources indicate could carry explosive, incendiary, chemical, biological or nuclear devices.

(2) An analysis of the potential for establishing secure facilities along established international aviation routes for the purposes of diverting and securing aircraft described in paragraph (1).

(b) REPORT FORMAT.—The Secretary may submit all, or part, of the report required by this section in classified and redacted form if the Secretary determines that it is appropriate or necessary.

SA 3911. Ms. SNOWE submitted an amendment intended to be proposed by her 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 210, between lines 22 and 23, insert the following:

SEC. 336. NATIONAL INTELLIGENCE COUNCIL REPORT ON METHODOLOGIES UTILIZED FOR NATIONAL INTELLIGENCE ESTIMATES.

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the National Intelligence Council shall submit to Congress a report that includes the following:

(1) The methodologies utilized for the initiation, drafting, publication, coordination, and dissemination of the results of National Intelligence Estimates (NIEs).

(2) Such recommendations as the Council considers appropriate regarding improvements of the methodologies utilized for National Intelligence Estimates in order to ensure the timeliness of such Estimates and ensure that such Estimates address the national security and intelligence priorities and objectives of the President and the National Intelligence Director.

(b) FORM.—The report under subsection (a) shall be submitted in an unclassified form, but may include a classified annex.

On page 210, line 23, strike ''**336.**'' and insert ''**337.**''.

SA 3912. Mr. SNOWE submitted an amendment intended to be proposed by her 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 210, between lines 22 and 23, insert the following:

SEC. 336. NATIONAL INTELLIGENCE DIRECTOR REPORT ON NATIONAL COUNTERTERRORISM CENTER.

(a) REPORT.—Not later than one year after the date of the establishment of the National Counterterrorism Center under section 143, the National Intelligence Director shall submit to Congress a report evaluating the effectiveness of the Center in achieving its primary missions under subsection (d) of that section.

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) An assessment of the effectiveness of the National Counterterrorism Center in achieving its primary missions.

(2) An assessment of the effectiveness of the authorities of the Center in contributing to the achievement of its primary missions, including authorities relating to personnel and staffing, funding, information sharing, and technology.

(3) An assessment of the relationships between the Center and the other elements and components of the intelligence community.

(4) An assessment of the extent to which the Center provides an appropriate model for the establishment of national intelligence centers under section 144.

(c) FORM.—The report under subsection (a) shall be submitted in an unclassified form, but may include a classified annex.

SA 3913. Mr. LEAHY 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 159, strike lines 19 through 25 and insert the following:

''(2) ENFORCEMENT OF SUBPOENA.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(D), either the Board or the Attorney General of the United States may seek an order to require such person to produce the evidence required by such subpoena from the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found.''.

SA 3914. Mr. LEAHY 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:

At the appropriate place, insert the following:

SEC. ___. PRIVACY AND PASSENGER IDENTIFICATION VERIFICATION TECHNOLOGIES.

(a) IN GENERAL.—The Secretary of Homeland Security shall consult with the Privacy and Civil Liberties Oversight Board in the development of any program to use passenger identification verification technologies.

(b) REPORT REQUIREMENT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, no Federal program for passenger verification identification technologies shall begin until after the Secretary of Homeland Security has submitted a report to Congress and to the Privacy and Civil Liberties Oversight Board about the program.

(2) REPORT CONTENTS.—The report shall address the privacy and civil liberty implications of the program, including the accuracy and reliability of the technologies used, and whether the program incorporates the necessary architectural, operational, technological, and procedural safeguards to protect privacy and civil liberties.

SA 3915. Mr. LEAHY 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:

At the appropriate place, insert the following:

SEC. ___. TERRORIST SCREENING CENTER.

(a) CRITERIA FOR WATCH LIST.—The Secretary of Homeland Security shall report to Congress the criteria for placing individuals on the Terrorist Screening Center consolidated screening watch list, including minimum standards for reliability and accuracy of identifying information, the certainty and level of threat that the individual poses, and the consequences that apply to the person if located. To the greatest extent consistent with the protection of classified information and applicable law, the report shall be in unclassified form and available to the public, with a classified annex where necessary.

(b) SAFEGUARDS AGAINST ERRONEOUS LISTINGS.—The Secretary of Homeland Security shall establish a process for individuals to challenge ''Automatic Selectee'' or ''No Fly'' designations on the consolidated screening watch list and have their names removed from such lists, if erroneously present.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Privacy and Civil Liberties Oversight Board

shall submit a report assessing the impact of the ''No Fly'' and ''Automatic Selectee'' lists on privacy and civil liberties to the Committee on the Judiciary, the Committee on Governmental Affairs, and the Committee on Commerce, Science and Transportation of the Senate, and the Committee on the Judiciary, the Committee on Government Reform, and the Committee on Transportation and Infrastructure of the House of Representatives. The report shall include any recommendations for practices, procedures, regulations, or legislation to eliminate or minimize adverse effects of such lists on privacy, discrimination, due process and other civil liberties, as well as the implications of applying those lists to other modes of transportation. The Comptroller General of the United States shall cooperate with the Privacy and Civil Liberties Board in the preparation of the report. To the greatest extent consistent with the protection of classified information and applicable law, the report shall be in unclassified form and available to the public, with a classified annex where necessary.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall become effective on the date of enactment of this Act.

SA 3916. Mr. LEAHY 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 132, line 23, strike ''and''.

On page 133, line 3, strike the period and insert ''; and''.

On page 133, between lines 3 and 4, insert the following:

(L) utilizing privacy-enhancing technologies that minimize the dissemination and disclosure of personally identifiable information.

On page 153, between lines 2 and 3, insert the following:

(o) LIMITATION ON FUNDS.—Notwithstanding any other provision of this section, none of the funds provided pursuant to subsection (n) may be obligated for deployment or implementation of the Network under subsection (f) unless—

(1) the guidelines and requirements under subsection (e) are submitted to Congress; and

(2) the Privacy and Civil Liberties Oversight Board submits to Congress an assessment of whether those guidelines and requirements incorporate the necessary architectural, operational, technological, and procedural safeguards to protect privacy and civil liberties.

SA 3917. Mr. LEAHY (for himself and Mr. GRASSLEY) 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:

At the appropriate place, insert the following:

SEC. ___. FBI TRANSLATOR REPORTING REQUIREMENT.

Section 205(c) of Public Law 107-56 (28 U.S.C. 532 note, 115 Stat. 282) is amended to read as follows:

''(c) REPORT.—Not later than 30 days after the date of enactment of the National Intelligence Reform Act of 2004, and annually thereafter, the Attorney General of the United States shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, that contains, with respect to each preceding 12-month period—

''(1) the number of translators employed, or contracted for, by the Federal Bureau of Investigation or other components of the Department of Justice;

''(2) any legal or practical impediments to using translators employed by other Federal, State, or local agencies on a full, part-time, or shared basis;

''(3) the needs of the Federal Bureau of Investigation for the specific translation services in certain languages, and recommendations for meeting those needs;

''(4) the status of any automated statistical reporting system, including implementation and future viability;

''(5) the storage capabilities of the digital collection system or systems utilized;

''(6) a description of the establishment and compliance with audio retention policies that satisfy the investigative and intelligence goals of the Federal Bureau of Investigation;

''(7) a description of the implementation of quality control procedures and mechanisms for monitoring compliance with quality control procedures; and

''(8) the current counterterrorism and counterintelligence audio backlog and recommendations for alleviating any backlog.''.

SA 3918. Mr. LEAHY 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:

At the appropriate place, insert the following:

SEC. ___. WHISTLEBLOWER PROTECTION.

(a) SHORT TITLE.—This section may be cited as the ''Congressional Right to Know Act''.

(b) FINDINGS.—Congress adopts herein specified findings of the National Commission on Terrorist Attacks Upon the United States (''9–11 Commission'') contained in the ''9–11 Commission Report'' issued on July 22, 2004, and makes further findings as follows:

(1) Prior to September 11, 2001, there were warnings of whistleblowers at the Federal Bureau of Investigation, and other national security professionals about security breakdowns in air security, border control and emergency planning.

(2) Whistleblowers throughout the Executive branch who lawfully exercised the freedom to warn were subjected to retaliation without effective legal defense.

(3) Safe communications channels that effectively protect the freedom to warn serve Congress' right to know and are the lifeline for the Commission's ''most difficult and important'' goal of ''strengthening congressional oversight to improve quality and accountability''.

(4) Effectively protecting whistleblowers' freedom to warn is the necessary foundation to implement and enforce 9–11 Commission reforms over entrenched institutional resistance, so that the pattern of announced reforms not effecting the necessary institutional and cultural changes does not happen again.

(5) Whistleblowers lawfully exercising the freedom to warn personify the 9–11 Commission's conclusion that the ''choice between security and liberty is a false choice'' because they use freedom to strengthen America's security.

(6) Whistleblowers exercising the freedom to warn are indispensable for ''an enhanced system of checks and balances to protect the precious liberties that are vital to our way of life'' by acting as sentinels who defend the principle that ''if our liberties are curtailed, we lose the values that we are struggling to defend''.

(7) Effective whistleblower protection is a cornerstone principle necessary for the Commission's institutional goal that ''[g]ood people'' should not have to ''overcome bad structures''.

(8) Effectively protecting the individual employee's freedom to warn is a prerequisite to strengthen national security by replacing the ''need to know'' culture of excessive agency compartmentalization with a ''need to share'' culture promoting a ''duty to the information'' and the American taxpayers.

(9) Creating a safe channel to effectively exercise the freedom to warn implements the 9–11 Commission's goal for policies ''that simultaneously empower and constrain officials, telling them clearly what is and what is not permitted''.

(10) Creating a safe channel to effectively exercise the freedom to warn of breaches in professional security standards serves the 9–11 Commission's premise that professional expertise should have priority over institutional concerns.

(c) JURISDICTION.—This section shall apply to any Federal employee, including the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Security Agency, the Department of Homeland Security, the Transportation Security Administration, or any other employee of the United States, as defined by section 2105 of title 5, United States Code, and to any employee or agent of an entity subject to liability under sections 3729 et. seq. of title 5, United States Code, the False Claims Act.

(d) PROHIBITED DISCRIMINATION.—No person covered by subsection (c) may be discharged, demoted, suspended, threatened, harassed, investigated other than any ministerial or nondiscretionary fact finding activities necessary for the agency to perform its mission, or in any other manner discriminated against, including denial, suspension, revocation, or other determination relating to a security clearance or any other access determination because the person—

(1) is about to or provides information, causes information to be provided, or otherwise communicates with any Member of Congress or any committee of Congress as provided by section 7211 of title 5, United States Code, the Lloyd LaFollette Act of 1912, including disclosure of protected information under Public Law 105–272, the Intelligence Community Whistleblower Protection Act;

(2)(A) is about to, or communicates or provides information whose disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs, cause such information to be communicated or provided, or otherwise assists in any lawful investigation of other action to carry out the government's responsibilities regarding any conduct which the person reasonably believes is evidence of any violation of any law, rule or regulation, gross waste, gross mismanagement, abuse of authority, or a substantial and specific danger to public health or safety when the information or assistance is provided to or the investigation is conducted by—

(i) the President or the President's authorized representative;

(ii) a Federal regulatory or law enforcement agency;

(iii) any Member of Congress or any committee of Congress; or

(iv) a witness, coworker, or person with supervisory authority over the person (or such other person who has the authority to investigate, discover, or terminate misconduct); or

(B) if communication of otherwise-covered information is specifically prohibited by law and if such information is required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs, it may be communicated to Congress pursuant to paragraph (1), the Special Counsel, the Inspector General of an agency, or another employee designated by the head of the agency to receive such disclosures;

(3) is about to or files, causes to be filed, testify, participate in, or otherwise assist in a proceeding or action filed or about to be filed relating to a violation of any law, rule, or regulation, or take any other lawful action to assist in carrying out the purposes of the law, rule, or regulation;

(4) is about to or refuses to violate or assist in the violation of any law, rule, or regulation;

(5) is about to or communicates or provides information protected by this subsection or cause such information to be provided or otherwise communicated, notwithstanding any nondisclosure policy, form, or agreement, if such policy, form, or agreement does not contain the following statement, with an additional reference to this Act: ''These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive order No. 12958, section 7211 of title 5, United States Code, United States Code (governing disclosures to Congress), section 1034 of title 10, United States Code (governing disclosure to Congress by members of the military), section 2302(b)(8) of title 5, United States Code (governing disclosures of illegality, waste, fraud, abuse, or public health or safety threats), the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents), and the statutes which protect against disclosures that could compromise national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by such Executive order and such statutory provisions are incorporated into this agreement and are controlling.'';

(e) CLARIFICATION OF WHISTLEBLOWER RIGHTS FOR CRITICAL INFRASTRUCTURE INFORMATION.—Section 214(c) of the Homeland Security Act of 2002 (Public Law 107–296) is amended by adding at the end the following: ''For purposes of this section a permissible use of independently obtained information includes the disclosure of such information under section 7211 of title 5, United States Code, and section 2302(b)(8) of title 5, United States Code and the provisions of this Act.''.

(f) PROTECTED ACTIVITIES.—Activities protected by this section is covered without restriction to time, place, form, motive, context, policy or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties;

(g) PRESUMPTIONS.—For purposes of this section, any presumption relating to the performance of a duty by an employee who has authority to take, direct others to take, recommend, or approve any personnel action may be rebutted by substantial evidence.

(h) DETERMINATIONS.—For purposes of subsection (d)(2), a determination as to whether an employee or applicant reasonably believes that they have provided or otherwise communicated information that evidences any violation of law, rule, regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety shall be made by determining whether a disinterested observer with knowledge of the essential facts known to and readily ascertainable by the employee would reasonably conclude that the actions evidence such violations, mismanagement, waste, abuse, or danger.

(i) ENFORCEMENT ACTION.—

(1) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of this section may seek relief under this subsection, by—

(A) filing a complaint with the Merit Systems Protection Board for a violation of sections 2302(b)(8), 2302(b)(9), or 2302(b)(11) of title 5, United States Code; or

(B) if the Board has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

(2) PROCEDURE.—

(A) BURDENS OF PROOF.—An action brought under this section shall be governed by the legal burdens of proof set forth in sections 1214 and 1221 of title 5, United States Code.

(B) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 1 year after the date on which the violation occurs.

(j) RIGHTS RETAINED BY PERSON.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any person under any Federal or State law, or under any collective bargaining agreement.

(k) REMEDIES.—

(1) IN GENERAL.—A person prevailing in any action under subsection (i) shall be entitled to all relief necessary to make the person whole.

(2) DAMAGES.—Relief for any action under paragraph (1) shall include—

(A) reinstatement or transfer to the first available position for which the person is qualified with the same seniority status that the person would have had, but for the discrimination;

(B) the amount of any back pay, with interest; and

(C) compensation for any compensatory, consequential or special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

SA 3919. Mr. LEAHY (for himself and Mr. GRASSLEY) 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:

Add at the end the following:

TITLE IV—REFORM OF FEDERAL BUREAU OF INVESTIGATION

SEC. 401. SHORT TITLE.

This title may be cited as the ''Federal Bureau of Investigation Reform Act of 2004''.

Subtitle A—Whistleblower Protection

SEC. 411. INCREASING PROTECTIONS FOR FBI WHISTLEBLOWERS.

Section 2303 of title 5, United States Code, is amended to read as follows:

''§ 2303. Prohibited personnel practices in the Federal Bureau of Investigation

''(a) DEFINITION.—In this section, the term 'personnel action' means any action described in clauses (i) through (x) of section 2302(a)(2)(A).

''(b) PROHIBITED PRACTICES.—Any employee of the Federal Bureau of Investigation who has the authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to any employee of the Bureau or because of—

''(1) any disclosure of information by the employee to the Attorney General (or an employee designated by the Attorney General for such purpose), a supervisor of the employee, the Inspector General for the Department of Justice, or a Member of Congress that the employee reasonably believes evidences—

''(A) a violation of any law, rule, or regulation; or

''(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; or

''(2) any disclosure of information by the employee to the Special Counsel of information that the employee reasonably believes evidences—

''(A) a violation of any law, rule, or regulation; or

''(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

''(c) INDIVIDUAL RIGHT OF ACTION.—Chapter 12 of this title shall apply to an employee of the Federal Bureau of Investigation who claims that a personnel action has been taken under this section against the employee as a reprisal for any disclosure of information described in subsection (b)(2).

''(d) REGULATIONS.—The Attorney General shall prescribe regulations to ensure that a personnel action under this section shall not be taken against an employee of the Federal Bureau of Investigation as a reprisal for any disclosure of information described in subsection (b)(1), and shall provide for the enforcement of such regulations in a manner consistent with applicable provisions of sections 1214 and 1221, and in accordance with the procedures set forth in sections 554 through 557 and 701 through 706.''.

Subtitle B—FBI Security Career Program

SEC. 421. SECURITY MANAGEMENT POLICIES.

The Attorney General shall establish policies and procedures for the effective management (including accession, education, training, and career development) of persons serving in security positions in the Federal Bureau of Investigation.

SEC. 422. DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) IN GENERAL.—Subject to the authority, direction, and control of the Attorney General, the Director of the Federal Bureau of Investigation (referred to in this subtitle as the ''Director'') shall carry out all powers, functions, and duties of the Attorney General with respect to the security workforce in the Federal Bureau of Investigation.

(b) POLICY IMPLEMENTATION.—The Director shall ensure that the policies of the Attorney

General established in accordance with this title are implemented throughout the Federal Bureau of Investigation at both the headquarters and field office levels.

SEC. 423. DIRECTOR OF SECURITY.

The Director shall appoint a Director of Security, or such other title as the Director may determine, to assist the Director in the performance of the duties of the Director under this title.

SEC. 424. SECURITY CAREER PROGRAM BOARDS.

(a) ESTABLISHMENT.—The Director acting through the Director of Security shall establish a security career program board to advise the Director in managing the hiring, training, education, and career development of personnel in the security workforce of the Federal Bureau of Investigation.

(b) COMPOSITION OF BOARD.—The security career program board shall include—

(1) the Director of Security (or a representative of the Director of Security);

(2) the senior officials, as designated by the Director, with responsibility for personnel management;

(3) the senior officials, as designated by the Director, with responsibility for information management;

(4) the senior officials, as designated by the Director, with responsibility for training and career development in the various security disciplines; and

(5) such other senior officials for the intelligence community as the Director may designate.

(c) CHAIRPERSON.—The Director of Security (or a representative of the Director of Security) shall be the chairperson of the board.

(d) SUBORDINATE BOARDS.—The Director of Security may establish a subordinate board structure to which functions of the security career program board may be delegated.

SEC. 425. DESIGNATION OF SECURITY POSITIONS.

(a) DESIGNATION.—The Director shall designate, by regulation, those positions in the Federal Bureau of Investigation that are security positions for purposes of this title.

(b) REQUIRED POSITIONS.—In designating security positions under subsection (a), the Director shall include, at a minimum, all security-related positions in the areas of—

(1) personnel security and access control;

(2) information systems security and information assurance;

(3) physical security and technical surveillance countermeasures;

(4) operational, program, and industrial security; and

(5) information security and classification management.

SEC. 426. CAREER DEVELOPMENT.

(a) CAREER PATHS.—The Director shall ensure that appropriate career paths for personnel who wish to pursue careers in security are identified in terms of the education, training, experience, and assignments necessary for career progression to the most senior security positions and shall make available published information on those career paths.

(b) LIMITATION ON PREFERENCE FOR SPECIAL AGENTS.—

(1) IN GENERAL.—Except as provided in the policy established under paragraph (2), the Attorney General shall ensure that no requirement or preference for a Special Agent of the Federal Bureau of Investigation (referred to in this subtitle as a ''Special Agent'') is used in the consideration of persons for security positions.

(2) POLICY.—The Attorney General shall establish a policy that permits a particular security position to be specified as available only to Special Agents, if a determination is made, under criteria specified in the policy, that a Special Agent—

(A) is required for that position by law;

(B) is essential for performance of the duties of the position; or

(C) is necessary for another compelling reason.

(3) REPORT.—Not later than December 15 of each year, the Director shall submit to the Attorney General a report that lists—

(A) each security position that is restricted to Special Agents under the policy established under paragraph (2); and

(B) the recommendation of the Director as to whether each restricted security position should remain restricted.

(c) OPPORTUNITIES TO QUALIFY.—The Attorney General shall ensure that all personnel, including Special Agents, are provided the opportunity to acquire the education, training, and experience necessary to qualify for senior security positions.

(d) BEST QUALIFIED.—The Attorney General shall ensure that the policies established under this title are designed to provide for the selection of the best qualified individual for a position, consistent with other applicable law.

(e) ASSIGNMENTS POLICY.—The Attorney General shall establish a policy for assigning Special Agents to security positions that provides for a balance between—

(1) the need for personnel to serve in career enhancing positions; and

(2) the need for requiring service in each such position for sufficient time to provide the stability necessary to carry out effectively the duties of the position and to allow for the establishment of responsibility and accountability for actions taken in the position.

(f) LENGTH OF ASSIGNMENT.—In implementing the policy established under subsection (b)(2), the Director shall provide, as appropriate, for longer lengths of assignments to security positions than assignments to other positions.

(g) PERFORMANCE APPRAISALS.—The Director shall provide an opportunity for review and inclusion of any comments on any appraisal of the performance of a person serving in a security position by a person serving in a security position in the same security career field.

(h) BALANCED WORKFORCE POLICY.—In the development of security workforce policies under this Act with respect to any employees or applicants for employment, the Attorney General shall, consistent with the merit system principles set out in paragraphs (1) and (2) of section 2301(b) of title 5, United States Code, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

SEC. 427. GENERAL EDUCATION, TRAINING, AND EXPERIENCE REQUIREMENTS.

(a) IN GENERAL.—The Director shall establish education, training, and experience requirements for each security position, based on the level of complexity of duties carried out in the position.

(b) QUALIFICATION REQUIREMENTS.—Before being assigned to a position as a program manager or deputy program manager of a significant security program, a person—

(1) must have completed a security program management course that is accredited by the Intelligence Community-Department of Defense Joint Security Training Consortium or is determined to be comparable by the Director; and

(2) must have not less than 6 years experience in security, of which not less than 2 years were performed in a similar program office or organization.

SEC. 428. EDUCATION AND TRAINING PROGRAMS.

(a) IN GENERAL.—The Director, in consultation with the Director of Central Intelligence and the Secretary of Defense, shall establish and implement education and training programs for persons serving in security positions in the Federal Bureau of Investigation.

(b) OTHER PROGRAMS.—The Director shall ensure that programs established under subsection (a) are established and implemented, to the maximum extent practicable, uniformly with the programs of the Intelligence Community and the Department of Defense.

SEC. 429. OFFICE OF PERSONNEL MANAGEMENT APPROVAL.

(a) IN GENERAL.—The Attorney General shall submit any requirement that is established under section 427 to the Director of the Office of Personnel Management for approval.

(b) FINAL APPROVAL.—If the Director does not disapprove the requirements established under section 427 within 30 days after the date on which the Director receives the requirement, the requirement is deemed to be approved by the Director of the Office of Personnel Management.

Subtitle C—FBI Counterintelligence Polygraph Program

SEC. 431. DEFINITIONS.

In this subtitle:

(1) POLYGRAPH PROGRAM.—The term ''polygraph program'' means the counterintelligence screening polygraph program established under section 432.

(2) POLYGRAPH REVIEW.—The term ''Polygraph Review'' means the review of the scientific validity of the polygraph for counterintelligence screening purposes conducted by the Committee to Review the Scientific Evidence on the Polygraph of the National Academy of Sciences.

SEC. 432. ESTABLISHMENT OF PROGRAM.

Not later than 6 months after the date of enactment of this Act, the Attorney General, in consultation with the Director of the Federal Bureau of Investigation and the Director of Security of the Federal Bureau of Investigation, shall establish a counterintelligence screening polygraph program for the Federal Bureau of Investigation that consists of periodic polygraph examinations of employees, or contractor employees of the Federal Bureau of Investigation who are in positions specified by the Director of the Federal Bureau of Investigation as exceptionally sensitive in order to minimize the potential for unauthorized release or disclosure of exceptionally sensitive information.

SEC. 433. REGULATIONS.

(a) IN GENERAL.—The Attorney General shall prescribe regulations for the polygraph program in accordance with subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedures Act).

(b) CONSIDERATIONS.—In prescribing regulations under subsection (a), the Attorney General shall—

(1) take into account the results of the Polygraph Review; and

(2) include procedures for—

(A) identifying and addressing false positive results of polygraph examinations;

(B) ensuring that adverse personnel actions are not taken against an individual solely by reason of the physiological reaction of the individual to a question in a polygraph examination, unless—

(i) reasonable efforts are first made independently to determine through alternative means, the veracity of the response of the individual to the question; and

(ii) the Director of the Federal Bureau of Investigation determines personally that the personnel action is justified;

(C) ensuring quality assurance and quality control in accordance with any guidance provided by the Department of Defense Polygraph Institute and the Director of Central Intelligence; and

(D) allowing any employee or contractor who is the subject of a counterintelligence screening polygraph examination under the polygraph program, upon written request, to have prompt access to any unclassified reports regarding an examination that relates to any adverse personnel action taken with respect to the individual.

SEC. 434. REPORT ON FURTHER ENHANCEMENT OF FBI PERSONNEL SECURITY PROGRAM.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to Congress a report setting forth recommendations for any legislative action that the Director considers appropriate in order to enhance the personnel security program of the Federal Bureau of Investigation.

(b) POLYGRAPH REVIEW RESULTS.—Any recommendation under subsection (a) regarding the use of polygraphs shall take into account the results of the Polygraph Review.

Subtitle D—Reports

SEC. 441. REPORT ON LEGAL AUTHORITY FOR FBI PROGRAMS AND ACTIVITIES.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Attorney General shall submit to Congress a report describing the statutory and other legal authority for all programs and activities of the Federal Bureau of Investigation.

(b) CONTENTS.—The report submitted under subsection (a) shall describe—

(1) the titles within the United States Code and the statutes for which the Federal Bureau of Investigation exercises investigative responsibility;

(2) each program or activity of the Federal Bureau of Investigation that has express statutory authority and the statute which provides that authority; and

(3) each program or activity of the Federal Bureau of Investigation that does not have express statutory authority, and the source of the legal authority for that program or activity.

(c) RECOMMENDATIONS.—The report submitted under subsection (a) shall recommend whether—

(1) the Federal Bureau of Investigation should continue to have investigative responsibility for each statute for which the Federal Bureau of Investigation currently has investigative responsibility;

(2) the legal authority for any program or activity of the Federal Bureau of Investigation should be modified or repealed;

(3) the Federal Bureau of Investigation should have express statutory authority for any program or activity of the Federal Bureau of Investigation for which the Federal Bureau of Investigation does not currently have express statutory authority; and

(4) the Federal Bureau of Investigation should—

(A) have authority for any new program or activity; and

(B) express statutory authority with respect to any new programs or activities.

Subtitle E—Ending the Double Standard

SEC. 451. ALLOWING DISCIPLINARY SUSPENSIONS OF MEMBERS OF THE SENIOR EXECUTIVE SERVICE FOR 14 DAYS OR LESS.

Section 7542 of title 5, United States Code, is amended by striking ''for more than 14 days''.

SEC. 452. SUBMITTING OFFICE OF PROFESSIONAL RESPONSIBILITY REPORTS TO CONGRESSIONAL COMMITTEES.

(a) IN GENERAL.—For each of the 5 years following the date of enactment of this Act, the Office of the Inspector General shall submit to the chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives an annual report to be completed by the Federal Bureau of Investigation, Office of Professional Responsibility and provided to the Inspector General, which sets forth—

(1) basic information on each investigation completed by that Office;

(2) the findings and recommendations of that Office for disciplinary action; and

(3) what, if any, action was taken by the Director of the Federal Bureau of Investigation or the designee of the Director based on any such recommendation.

(b) CONTENTS.—In addition to all matters already included in the annual report described in subsection (a), the report shall also include an analysis of—

(1) whether senior Federal Bureau of Investigation employees and lower level Federal Bureau of Investigation personnel are being disciplined and investigated similarly; and

(2) whether any double standard is being employed to more senior employees with respect to allegations of misconduct.

Subtitle F—Enhancing Security at the Department of Justice

SEC. 461. REPORT ON THE PROTECTION OF SECURITY AND INFORMATION AT THE DEPARTMENT OF JUSTICE.

Not later than 9 months after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the manner in which the Security and Emergency Planning Staff, the Office of Intelligence Policy and Review, and the Chief Information Officer of the Department of Justice plan to improve the protection of security and information at the Department of Justice, including a plan to establish secure electronic communications between the Federal Bureau of Investigation and the Office of Intelligence Policy and Review for processing information related to the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

SEC. 462. AUTHORIZATION FOR INCREASED RESOURCES TO PROTECT SECURITY AND INFORMATION.

There are authorized to be appropriated to the Department of Justice for the activities of the Security and Emergency Planning Staff to meet the increased demands to provide personnel, physical, information, technical, and litigation security for the Department of Justice, to prepare for terrorist threats and other emergencies, and to review security compliance by components of the Department of Justice—

(1) $13,000,000 for fiscal years 2004 and 2005;

(2) $17,000,000 for fiscal year 2006; and

(3) $22,000,000 for fiscal year 2007.

SEC. 463. AUTHORIZATION FOR INCREASED RESOURCES TO FULFILL NATIONAL SECURITY MISSION OF THE DEPARTMENT OF JUSTICE.

There are authorized to be appropriated to the Department of Justice for the activities of the Office of Intelligence Policy and Review to help meet the increased personnel demands to combat terrorism, process applications to the Foreign Intelligence Surveillance Court, participate effectively in counterespionage investigations, provide policy analysis and oversight on national security matters, and enhance secure computer and telecommunications facilities—

(1) $7,000,000 for fiscal years 2004 and 2005;

(2) $7,500,000 for fiscal year 2006; and

(3) $8,000,000 for fiscal year 2007.

SA 3920. Mr. LEAHY (for himself and Mr. GRASSLEY) 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 177, after line 17, add the following:

Subtitle D—Foreign Intelligence Surveillance

SEC. 231. SHORT TITLE.

This subtitle may be cited as the ''Domestic Surveillance Oversight Act of 2004''.

SEC. 232. IMPROVEMENTS TO FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) RULES AND PROCEDURES FOR FISA COURTS.—Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by adding at the end the following new subsection:

''(e)(1) The courts established pursuant to subsections (a) and (b) may establish such rules and procedures, and take such actions, as are reasonably necessary to administer their responsibilities under this Act.

''(2) The rules and procedures established under paragraph (1), and any modifications of such rules and procedures, shall be recorded, and shall be transmitted to the following:

''(A) All of the judges on the court established pursuant to subsection (a).

''(B) All of the judges on the court of review established pursuant to subsection (b).

''(C) The Chief Justice of the United States.

''(D) The Committee on the Judiciary of the Senate.

''(E) The Select Committee on Intelligence of the Senate.

''(F) The Committee on the Judiciary of the House of Representatives.

''(G) The Permanent Select Committee on Intelligence of the House of Representatives.''.

(b) REPORTING REQUIREMENTS.—(1) The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is further amended—

(A) by redesignating title VI as title VII, and section 601 as section 701, respectively; and

(B) by inserting after title V the following new title:

''TITLE VI—PUBLIC REPORTING REQUIREMENT

''PUBLIC REPORT OF THE ATTORNEY GENERAL

''SEC. 601. In addition to the reports required by sections 107, 108, 306, 406, and 502, in April of each year, the Attorney General shall issue a public report setting forth with respect to the preceding calendar year—

''(1) the aggregate number of United States persons targeted for orders issued under this Act, including those targeted for—

''(A) electronic surveillance under section 105;

''(B) physical searches under section 304;

''(C) pen registers under section 402; and

''(D) access to records under section 501;

''(2) the number of times that the Attorney General has authorized that information obtained under such sections or any information derived therefrom may be used in a criminal proceeding;

''(3) the number of times that a statement was completed pursuant to section 106(b), 305(c), or 405(b) to accompany a disclosure of information acquired under this Act for law enforcement purposes; and

''(4) in a manner consistent with the protection of the national security of the United States—

''(A) the portions of the documents and applications filed with the courts established under section 103 that include significant construction or interpretation of the provisions of this Act or any provision of the

United States Constitution, not including the facts of any particular matter, which may be redacted;

''(B) the portions of the opinions and orders of the courts established under section 103 that include significant construction or interpretation of the provisions of this Act or any provision of the United States Constitution, not including the facts of any particular matter, which may be redacted; and

''(C) in the first report submitted under this section, the matters specified in subparagraphs (A) and (B) for all documents and applications filed with the courts established under section 103, and all otherwise unpublished opinions and orders of that court, for the 4 years before the preceding calendar year in addition to that year.''.

(2) The table of contents for that Act is amended by striking the items for title VI and inserting the following new items:

''TITLE VI—PUBLIC REPORTING REQUIREMENT

''Sec. 601. Public report of the Attorney General.

''TITLE VII—EFFECTIVE DATE

''Sec. 701. Effective date.''.

SEC. 233. ADDITIONAL IMPROVEMENTS OF CONGRESSIONAL OVERSIGHT OF SURVEILLANCE ACTIVITIES.

(a) TITLE 18, UNITED STATES CODE.—Section 2709(e) of title 18, United States Code, is amended by adding at the end the following new sentence: ''The information shall include a separate statement of all such requests made of institutions operating as public libraries or serving as libraries of secondary schools or institutions of higher education.''.

(b) RIGHT TO FINANCIAL PRIVACY ACT OF 1978.—Section 1114(a)(5)(C) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(5)(C)) is amended to read as follows:

''(C)(i) On a semiannual basis the Attorney General shall fully inform the congressional intelligence committees, the Committee on the Judiciary of the House of Representatives, and the Committee on the Judiciary of the Senate concerning all requests made pursuant to this paragraph.

''(ii) In the case of the semiannual reports required to be submitted under clause (i) to the congressional intelligence committees, the submittal dates for such reports shall be as provided in section 507 of the National Security Act of 1947.

''(iii) In this subparagraph, the term 'congressional intelligence committees' has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).''.

(c) FAIR CREDIT REPORTING ACT.—Section 625(h)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681u(h)(1)), as amended by section 811(b)(8)(B) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306), is further amended—

(1) by striking ''and the Committee on Banking, Finance and Urban Affairs of the House of Representatives'' and inserting '', the Committee on Financial Services, and the Committee on the Judiciary of the House of Representatives''; and

(2) by striking ''and the Committee on Banking, Housing, and Urban Affairs of the Senate'' and inserting '', the Committee on Banking, Housing, and Urban Affairs, and the Committee on the Judiciary of the Senate''.

SA 3921. Mr. LEAHY 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:

At the appropriate place, insert the following:

SEC. ___. ANTHRAX VICTIMS FUND.

(a) REFERENCES.—Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered a reference to the September 11th Victim Compensation Fund of 2001 (Public Law 107–42; 49 U.S.C. 40101 note).

(b) COMPENSATION FOR VICTIMS OF TERRORIST ACTS.—

(1) DEFINITIONS.—Section 402(6) is amended by inserting ''or related to a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001'' before the period.

(2) PURPOSE.—Section 403 is amended by inserting ''or as a result of a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001'' before the period.

(3) DETERMINATION OF ELIGIBILITY FOR COMPENSATION.—

(A) CLAIM FORM CONTENTS.—Section 405(a)(2)(B) is amended—

(i) in clause (i), by inserting ''or as a result of a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001'' before the semicolon;

(ii) in clause (ii), by inserting ''or terrorist-related laboratory-confirmed anthrax infection'' before the semicolon; and

(iii) in clause (iii), by inserting ''or terrorist-related laboratory-confirmed anthrax infection'' before the period.

(B) LIMITATION.—Section 405(a)(3) is amended by striking ''2 years'' and inserting ''3 years''.

(C) COLLATERAL COMPENSATION.—Section 405(b)(6) is amended by inserting ''or as a result of a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001'' before the period.

(D) ELIGIBILITY.—

(i) INDIVIDUALS.—Section 405(c)(2) is amended—

(I) in subparagraph (B), by striking ''or'' after the semicolon;

(II) in subparagraph (C)—

(aa) by striking ''or (B)'' and inserting '', (B), or (C)''; and

(bb) striking ''(C)'' and inserting ''(D)''; and

(III) by inserting after subparagraph (B) the following:

''(C) an individual who suffered physical harm or death as a result of a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001; or ''.

(ii) REQUIREMENTS.—Section 405(c)(3) is amended—

(I) in the heading for subparagraph (B) by inserting ''RELATING TO SEPTEMBER 11TH TERRORIST ACTS'' before the period; and

(II) by adding at the end the following:

''(C) LIMITATION ON CIVIL ACTION RELATING TO OTHER TERRORIST ACTS.—

''(i) IN GENERAL.—Upon the submission of a claim under this title, the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001. The preceding sentence does not apply to a civil action to recover any collateral source obligation based on contract, or to a civil action against any person who is a knowing participant in any conspiracy to commit any terrorist act.

''(ii) PENDING ACTIONS.—In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this title unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 4 of the Anthrax Victims Fund Fairness Act of 2003.

''(D) INDIVIDUALS WITH PRIOR COMPENSATION.—

''(i) IN GENERAL.—Subject to clause (ii), an individual is not an eligible individual for purposes of this subsection if that individual, or the estate of that individual, has received any compensation from a civil action or settlement based on tort related to a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001.

''(ii) EXCEPTION.—Clause (i) shall not apply to compensation received from a civil action against any person who is a knowing participant in any conspiracy to commit any terrorist act.''.

(iii) INELIGIBILITY OF PARTICIPANTS AND CONSPIRATORS.—Section 405(c) is amended by adding at the end the following:

''(4) INELIGIBILITY OF PARTICIPANTS AND CONSPIRATORS.—An individual, or a representative of that individual, shall not be eligible to receive compensation under this title if that individual is identified by the Attorney General to have been a participant or conspirator in a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001.''.

(c) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Attorney General, in consultation with the Special Master, shall promulgate regulations to carry out the amendments made by this section, including regulations with respect to—

(1) forms to be used in submitting claims under this Act;

(2) the information to be included in such forms;

(3) procedures for hearing and the presentation of evidence;

(4) procedures to assist an individual in filing and pursuing claims under this section; and

(5) other matters determined appropriate by the Attorney General.

SA 3922. Mr. DURBIN 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:

At the appropriate place, insert the following:

TITLE ___—SAFE ACT

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Security and Freedom Ensured Act of 2004'' or the ''SAFE Act''.

SEC. ___02. LIMITATION ON ROVING WIRETAPS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 105(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(c)) is amended—

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

''(A)(i) the identity of the target of electronic surveillance, if known; or

''(ii) if the identity of the target is not known, a description of the target and the nature and location of the facilities and places at which the electronic surveillance will be directed;

''(B)(i) the nature and location of each of the facilities or places at which the electronic surveillance will be directed, if known; and

''(ii) if any of the facilities or places are unknown, the identity of the target;''; and

(2) in paragraph (2)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(B) by inserting after subparagraph (A), the following:

''(B) in cases where the facility or place at which the surveillance will be directed is not known at the time the order is issued, that the surveillance be conducted only when the presence of the target at a particular facility or place is ascertained by the person conducting the surveillance;''.

SEC. ___03. LIMITATION ON AUTHORITY TO DELAY NOTICE OF SEARCH WARRANTS.

(a) IN GENERAL.—Section 3103a of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''may have an adverse result (as defined in section 2705)'' and inserting ''will—

''(A) endanger the life or physical safety of an individual;

''(B) result in flight from prosecution; or

''(C) result in the destruction of, or tampering with, the evidence sought under the warrant''; and

(B) in paragraph (3), by striking ''within a reasonable period'' and all that follows and inserting ''not later than 7 days after the execution of the warrant, which period may be extended by the court for an additional period of not more than 7 days each time the court finds reasonable cause to believe, pursuant to a request by the Attorney General, the Deputy Attorney General, or an Associate Attorney General, that notice of the execution of the warrant will—

''(A) endanger the life or physical safety of an individual;

''(B) result in flight from prosecution; or

''(C) result in the destruction of, or tampering with, the evidence sought under the warrant.''; and

(2) by adding at the end the following:

''(c) REPORTS.—

''(1) IN GENERAL.—Every 6 months, the Attorney General shall submit a report to Congress summarizing, with respect to warrants under subsection (b), the requests made by the Department of Justice for delays of notice and extensions of delays of notice during the previous 6-month period.

''(2) CONTENTS.—Each report submitted under paragraph (1) shall include, for the preceding 6-month period—

''(A) the number of requests for delays of notice with respect to warrants under subsection (b), categorized as granted, denied, or pending; and

''(B) for each request for delayed notice that was granted, the number of requests for extensions of the delay of notice, categorized as granted, denied, or pending.

''(3) PUBLIC AVAILABILITY.—The Attorney General shall make the report submitted under paragraph (1) available to the public.''.

(b) SUNSET PROVISION.—

(1) IN GENERAL.—Subsections (b) and (c) of section 3103a of title 18, United States Code, shall cease to have effect on December 31, 2005.

(2) EXCEPTION.—With respect to any particular foreign intelligence investigation that began before the date on which the provisions referred to in paragraph (1) cease to have effect, or with respect to any particular offense or potential offense that began or occurred before the date on which the provisions referred to in paragraph (1) cease to have effect, such provisions shall continue in effect.

SEC. ___04. PRIVACY PROTECTIONS FOR LIBRARY, BOOKSELLER, AND OTHER PERSONAL RECORDS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) APPLICATIONS FOR ORDERS.—Section 501(b)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(b)(2)) is amended—

(1) by striking ''shall specify that the records'' and inserting ''shall specify that—

''(A) the records''; and

(2) by striking the period at the end and inserting the following: ''; and

''(B) there are specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or an agent of a foreign power.''.

(b) ORDERS.—Section 501(c)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(c)(1)) is amended by striking ''finds that'' and all that follows and inserting ''finds that—

''(A) there are specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or an agent of a foreign power; and

''(B) the application meets the other requirements of this section.''.

(c) OVERSIGHT OF REQUESTS FOR PRODUCTION OF RECORDS.—Section 502(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1862) is amended to read as follows:

''(a) On a semiannual basis, the Attorney General shall, with respect to all requests for the production of tangible things under section 501, fully inform—

''(1) the Select Committee on Intelligence of the Senate;

''(2) the Committee on the Judiciary of the Senate;

''(3) the Permanent Select Committee on Intelligence of the House of Representatives; and

''(4) the Committee on the Judiciary of the House of Representatives.''.

SEC. ___05. PRIVACY PROTECTIONS FOR COMPUTER USERS AT LIBRARIES UNDER NATIONAL SECURITY AUTHORITY.

Section 2709 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''A wire'' and inserting the following:

''(1) IN GENERAL.—A wire''; and

(B) by adding at the end the following:

''(2) EXCEPTION.—A library shall not be treated as a wire or electronic communication service provider for purposes of this section.''; and

(2) by adding at the end the following:

''(f) DEFINED TERM.—In this section, the term 'library' means a library (as that term is defined in section 213(2) of the Library Services and Technology Act (20 U.S.C. 9122(2)) whose services include access to the Internet, books, journals, magazines, newspapers, or other similar forms of communication in print or digitally to patrons for their use, review, examination, or circulation.''.

SEC. ___06. EXTENSION OF PATRIOT SUNSET PROVISION.

Section 224(a) of the USA PATRIOT ACT (18 U.S.C. 2510 note) is amended—

(1) by striking ''213, 216, 219,''; and

(2) by inserting ''and section 505'' after ''by those sections)''.

SA 3923. Mr. DURBIN (for himself, Mr. LEAHY, and Mr. SARBANES) 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 154, strike lines 1 through 3 and insert the following:

(1) analyze and review actions the executive branch takes to protect the Nation from terrorism, ensuring that the need for such actions is balanced with the need to protect privacy and civil liberties; and

On page 155, line 6 strike beginning with ''has'' through line 9 and insert the following: ''has established—

''(i) that the need for the power is balanced with the need to protect privacy and civil liberties;''.

On page 166, strike lines 4 through 6 and insert the following: ''element has established—

''(i) that the need for the power is balanced with the need to protect privacy and civil liberties;''.

SA 3924. Mr. ROBERTS (for himself and Mr. DEWINE) 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 124, after line 12, insert the following:

(g) ENTERPRISE ARCHITECTURE.—(1) The Director of the Federal Bureau of Investigation shall—

(A) maintain an up to date enterprise architecture or computer needs blueprint; and

(B) report annually to Congress on this enterprise architecture and whether the Federal Bureau of Investigation is complying with the architecture.

(2) If the Director of the Federal Bureau of Investigation determines that the Federal Bureau of Investigation will not be able to comply with the architecture within any 3-month period—

(A) the Director shall make an interim report to Congress on why there was a failure to comply; and

(B) if the reason is substantially related to resources, the Director shall submit with the interim notice a request for additional funding that would resolve the problem or a request to reprogram funds that would resolve the problem.

SA 3925. Mr. KYL 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:

At the end of the bill, insert the following:

TITLE ____—SOCIAL SECURITY PROTECTION

SEC. ____01. AMENDMENTS TO THE SOCIAL SECURITY ACT RELATING TO IDENTIFICATION OF INDIVIDUALS.

(a) ANTIFRAUD MEASURES FOR SOCIAL SECURITY CARDS.—Section 205(c)(2)(G) of the Social Security Act (42 U.S.C. 405(c)(2)(G)) is amended—

(1) by inserting ''(i)'' after ''(G)'';

(2) by striking ''banknote paper'' and inserting ''durable plastic or similar material''; and

(3) by adding at the end the following new clauses:

''(ii) Each Social security card issued under this subparagraph shall include an encrypted electronic identification strip which shall be unique to the individual to whom the card is issued and such biometric information as is determined by the Commissioner and the Secretary of Homeland Security to be necessary for identifying the person to whom to the card is issued. The Commissioner shall develop such electronic identification strip in consultation with the Secretary of Homeland Security, so as to enable employers to use such strip in accordance with section ____03(b) of the National Intelligence Reform Act of 2004 to obtain access to the Employment Eligibility Database established by such Secretary pursuant to section ____02 of such Act with respect to the individual to whom the card is issued.

''(iii) The Commissioner shall provide for the issuance (or reissuance) to each individual who—

''(I) has been assigned a Social Security account number under subparagraph (B),

''(II) has attained the minimum age applicable, in the jurisdiction in which such individual engages in employment, for legally engaging in such employment, and

''(III) files application for such card under this clause in such form and manner as shall be prescribed by the Commissioner,

a social security card which meets the preceding requirements of this subparagraph.

''(iv) The Commissioner shall maintain an ongoing effort to develop measures in relation to the social security card and the issuance thereof to preclude fraudulent use thereof.''.

(b) SHARING OF INFORMATION WITH THE SECRETARY OF HOMELAND SECURITY.—Section 205(c)(2) of such Act is amended by adding at the end the following new subparagraph:

''(I) Upon the issuance of a Social Security account number under subparagraph (B) to any individual or the issuance of a social security card under subparagraph (G) to any individual, the Commissioner of Social Security shall transmit to the Secretary of Homeland Security such information received by the Commissioner in the individual's application for such number or such card as such Secretary determines necessary and appropriate for administration of the National Intelligence Reform Act of 2004.''.

(c) PROGRAM TO ENSURE VERACITY OF APPLICATION INFORMATION.—The Commissioner of Social Security, in consultation with the Secretary of Homeland Security, shall develop a program to ensure the accuracy and veracity of the information and evidence supplied to the Commissioner under section 205(c)(2)(B)(ii) of the Social Security Act (42 U.S.C. 405(c)(2)(B)(ii)) in connection with an application for a social security number.

(d) EFFECTIVE DATES.—The amendment made by subsection (a) shall apply with respect to social security cards issued after 2 years after the date of the enactment of this Act. The amendment made by subsection (b) shall apply with respect to the issuance of Social Security account numbers and social security cards after 2 years after the date of the enactment of this Act.

SEC. ____02. EMPLOYMENT ELIGIBILITY DATABASE.

(a) IN GENERAL.—The Secretary of Homeland Security (hereinafter in this title referred to as ''the Secretary'') shall establish and maintain an Employment Eligibility Database. The Database shall include data comprised of the citizenship status of individuals and the work and residency eligibility information (including expiration dates) with respect to individuals who are not citizens or nationals of the United States but are authorized to work in the United States. Such data shall include all such data maintained by the Department of Homeland Security as of the date of the establishment of such database and information obtained from the Commissioner of Social Security pursuant to section 205(c)(2)(I) of the Social Security Act. The Secretary shall maintain ongoing consultations with the Commissioner to ensure efficient and effective operation of the Database.

(b) INCORPORATION OF ONGOING PILOT PROGRAMS.—To the extent that the Secretary determines appropriate in furthering the purposes of subsection (a), the Secretary may incorporate the information, processes, and procedures employed in connection with the Citizen Attestation Verification Pilot Program and the Basic Pilot Program into the operation and maintenance of the Database under subsection (a).

(c) CONFIDENTIALITY.—No officer or employee of the Department of Homeland Security shall have access to any information contained in the Database for any purpose other than the establishment of a system of records necessary for the effective administration of this title or for national security related purposes (as determined by the Commissioner of Social Security in consultation with the Secretary of State and the Secretary of Homeland Security). The Secretary shall restrict access to such information to officers and employees of the United States whose duties or responsibilities require access for the administration or enforcement of the provisions of this title or for national security related purposes (as determined under the preceding sentence). The Secretary shall provide such other safeguards as the Secretary determines to be necessary or appropriate to protect the confidentiality of information contained in the Database.

(d) DEADLINE FOR MEETING REQUIREMENTS.—The Secretary shall complete the establishment of the Database and provide for the efficient and effective operation of the Database in accordance with this section not later than 2 years after the date of the enactment of this Act.

SEC. ____03. REQUIREMENTS RELATING TO INDIVIDUALS COMMENCING WORK IN THE UNITED STATES.

(a) REQUIREMENTS FOR EMPLOYEES.—No individual may commence employment with an employer in the United States unless such individual has—

(1) obtained a social security card issued by the Commissioner of Social Security meeting the requirements of section 205(c)(2)(G)(iii) of the Social Security Act, and

(2) displayed such card to the employer pursuant to the employer's request for purposes of the verification required under subsection (b).

(b) REQUIREMENTS FOR EMPLOYERS.—

(1) IN GENERAL.—No employer may employ an individual in the United States in any capacity if, as soon as practical after such individual has been hired, such individual has not been verified by the employer to have a social security card issued to such individual pursuant to section 205(c)(2)(G) of the Social Security Act and to be authorized to work in the United States in such capacity. Such verification shall be made in accordance with procedures prescribed by the Secretary for the purposes of ensuring against fraudulent use of the card and accurate and prompt verification of the authorization of such individual to work in the United States in such capacity.

(2) VERIFICATION PROCEDURES.—Such procedures shall include use of a card-reader device approved by the Secretary that is capable of reading the electronic identification strip borne by the card and the biometric information included on the card so as to verify the identity of the card holder and the card holder's authorization to work.

(3) ACCESS TO DATABASE.—The Secretary shall ensure that—

(A) by means of such procedures, the employer will have such access to the Employment Eligibility Database maintained by the Secretary so as to enable the employer to obtain information, relating to the identification, citizenship, residency, and work eligibility of the individual seeking employment by the employer in any capacity, which is necessary to inform the employer as to whether the individual is authorized to work for the employer in the United States in such capacity, and

(B) the procedures described in paragraph (2) impose a minimal financial burden on the employer.

(c) EFFECTIVE DATE.—The requirements of this section shall apply with respect to the employment of any individual in any capacity commencing after 2 years after the date of the enactment of this Act.

SEC. ____04. ENFORCEMENT.

(a) CIVIL PENALTIES.—The Secretary may assess a penalty, payable to the Secretary, against any employer who—

(1) continues to employ an individual in the United States in any capacity who is known by the employer not to be authorized to work in the United States in such capacity, or

(2) fails to comply with the procedures prescribed by the Secretary pursuant to section ____03 in connection with the employment of any individual.

Such penalty shall not exceed $50,000 for each occurrence of a violation described in paragraph (1) or (2) with respect to the individual, plus, in the event of the removal or deportation of such individual from the United States based on findings developed in connection with the assessment or collection of such penalty, the costs incurred by the Federal Government in connection with such removal or deportation.

(b) ACTIONS BY THE SECRETARY.—If any person is assessed under subsection (a) and fails to pay the assessment when due, or any person otherwise fails to meet any requirement of this title, the Secretary may bring a civil action in any district court of the United States within the jurisdiction of which such person's assets are located or in which such person resides or is found for the recovery of the amount of the assessment or for appropriate equitable relief to redress the violation or enforce the provisions of this section, and process may be served in any other district. The district courts of the United States shall have jurisdiction over actions brought under this section by the Secretary without regard to the amount in controversy.

(c) CRIMINAL PENALTY.—Any person who—

(1) continues to employ an individual in the United States in any capacity who such person knows not to be authorized to work in the United States in such capacity, or

(2) hires for employment any individual in the United States and fails to comply with the procedures prescribed by the Secretary pursuant to section ____03(b) in connection with the hiring of such individual,

shall upon conviction be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

SEC. ___05. AUTHORIZATIONS OF APPROPRIATIONS.

(a) DEPARTMENT OF HOMELAND SECURITY.—There are authorized to be appropriated to the Department of Homeland Security for each fiscal year beginning on or after October 1, 2004, such sums as are necessary to carry out the provisions of this title.

(b) SOCIAL SECURITY ADMINISTRATION.—There are authorized to be appropriated to the Social Security Administration for each fiscal year beginning on or after October 1, 2004, such sums as are necessary to carry out the amendments made by section ___01.

SEC. ___06. INTEGRATION OF FINGERPRINTING DATABASES.

The Secretary of Homeland Security and the Attorney General of the United States shall jointly undertake to integrate the border-patrol fingerprinting identification system maintained by the Department of Homeland Security with the fingerprint database maintained by the Federal Bureau of Investigation. The integration of databases pursuant to this section shall be completed not later than 2 years after the date of the enactment of this Act.

SEC. ___07. USE OF CARD; RULE OF CONSTRUCTION.

Nothing in this title or the amendments made by this title shall be construed to establish a national identification card, and it is the policy of the United States that the social security card shall not be used as a national identification card and shall only be used for verification of an individual's employment status after an offer of employment has been made and for national security related purposes of the United States (as determined by the Commissioner of Social Security in consultation with the Secretary of State and the Secretary of Homeland Security).

SA 3926. Mr. KYL 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:

At the end, add the following new title:

TITLE IV—VISA REQUIREMENTS

SEC. 401. FINDINGS.

Congress makes the following findings:

(1) Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) governs the admission of nonimmigrants to the United States and sets forth the process for that admission.

(2) Section 214(b) of the Immigration and Nationality Act places the burden of proof on a visa applicant to establish ''to the satisfaction of the consular officer, at the time of the application for a visa . . . that he is entitled to a nonimmigrant status''.

(3) The report of the National Commission on Terrorist Attacks Upon the United States included a recommendation that the United States ''combine terrorist travel intelligence, operations, and law enforcement in a strategy to intercept terrorists . . . and constrain terrorist mobility''.

(4) Fifteen of the 19 individuals who participated in the aircraft hijackings on September 11, 2001, were nationals of Saudi Arabia who legally entered the United States after securing nonimmigrant visas despite the fact that they did not adequately meet the burden of proof required by section 214(b) of the Immigration and Nationality Act.

(5) Prior to September 11, 2001, the Department of State allowed consular officers to approve nonimmigrant visa applications that were incomplete, and without conducting face-to-face interviews of many applicants.

(6) Each of the 15 individuals from Saudi Arabia who participated in the aircraft hijackings on September 11, 2001, filed a visa application that contained inaccuracies and omissions that should have prevented such individual from obtaining a visa.

(7) Only one of the hijackers listed an actual address on his visa application. The other hijackers simply wrote answers such as ''California'', ''New York'', or ''Hotel'' when asked to provide a destination inside the United States on the visa application.

(8) Only 3 of the individuals from Saudi Arabia who participated in the aircraft hijackings on September 11, 2001, provided any information in the section of the visa application that requests the name and address of an employer or school in the United States.

(9) The 2002 General Accounting Office report entitled ''Border Security: Visa Process Should Be Strengthened as Antiterrorism Tool'' outlined the written guidelines and practices of the Department of State related to visa issuance and stated that the Department of State allowed for widespread discretion among consular officers in adhering to the burden of proof requirements under section 214(b) of the Immigration and Nationality Act.

(10) The General Accounting Office report further stated that the ''Consular Best Practices Handbook'' of the Department of State gave consular managers and staff the discretion to ''waive personal appearance and interviews for certain nonimmigrant visa applicants''.

(11) Only 2 of the 15 individuals from Saudi Arabia who participated in the aircraft hijackings on September 11, 2001, were interviewed by Department of State consular officers.

(12) If the Department of State had required all consular officers to implement section 214(b) of the Immigration and Nationality Act, conduct face-to-face interviews, and require that visa applications be completely and accurately filled out, those who participated in the aircraft hijackings on September 11, 2001, may have been denied nonimmigrant visas and the tragedy of September 11, 2001, could have been prevented.

SEC. 402. IN PERSON INTERVIEWS OF VISA APPLICANTS.

(a) REQUIREMENT FOR INTERVIEWS.—Section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

''(h) Notwithstanding any other provision of this Act, the Secretary of State shall require every alien applying for a nonimmigrant visa—

''(1) who is at least 12 years of age and not more than 65 years of age to submit to an in person interview with a consular officer unless the requirement for such interview is waived—

''(A) by a consular official and such alien is within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G) or is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof;

''(B) by a consular official and such alien is applying for a visa—

''(i) not more than 12 months after the date on which the alien's prior visa expired;

''(ii) for the classification under section 101(a)(15) for which such prior visa was issued;

''(iii) from the consular post located in the country in which the alien is a national; and

''(iv) the consular officer has no indication that the alien has not complied with the immigration laws and regulations of the United States; or

''(C) by the Secretary of State if the Secretary determines that such waiver is—

''(i) in the national interest of the United States; or

''(ii) necessary as a result of unusual circumstances; and

''(2) notwithstanding paragraph (1), to submit to an in person interview with a consular officer if such alien—

''(A) is not a national of the country in which the alien is applying for a visa;

''(B) was previously refused a visa, unless such refusal was overcome or a waiver of ineligibility has been obtained;

''(C) is listed in the Consular Lookout and Support System (or successor system at the Department of State);

''(D) may not obtain a visa until a security advisory opinion or other Department of State clearance is issued unless such alien is—

''(i) within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G); and

''(ii) not a national of a country that is officially designated by the Secretary of State as a state sponsor of terrorism; or

''(E) is identified as a member of a group or sector that the Secretary of State determines—

''(i) poses a substantial risk of submitting inaccurate information in order to obtain a visa;

''(ii) has historically had visa applications denied at a rate that is higher than the average rate of such denials; or

''(iii) poses a security threat to the United States.''.

(b) CONDUCT DURING INTERVIEWS.—Section 222 of the Immigration and Nationality Act (8 U.S.C. 1202), as amended by subsection (a), is further amended by adding at the end the following new subsection:

''(i) A consular officer who is conducting an in person interview with an alien applying for a visa or other documentation shall—

''(1) make every effort to conduct such interview fairly;

''(2) employ high professional standards during such interview;

''(3) use best interviewing techniques to elicit pertinent information to assess the alien's qualifications, including techniques to identify any potential security concerns posed by the alien;

''(4) provide the alien with an adequate opportunity to present evidence establishing the accuracy of the information in the alien's application; and

''(5) make a careful record of the interview to document the basis for the final action on the alien's application, if appropriate.''.

SEC. 403. VISA APPLICATION REQUIREMENTS.

Section 222(c) of the Immigration and Nationality Act (8 U.S.C. 1202(c)) is amended by inserting ''The alien shall provide complete and accurate information in response to any request for information contained in the application.'' after the second sentence.

SEC. 404. EFFECTIVE DATE.

Notwithstanding section 341 or any other provision of this Act, this title shall take effect 90 days after date of the enactment of this Act.

SA 3927. 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:

Insert the following in the appropriate place:

TITLE ____—CHEMICAL FACILITIES SECURITY

SEC. ____0. 1. SHORT TITLE.

This title may be cited as the ''Chemical Facilities Security Act of 2004''.

SEC. ____02. DEFINITIONS.

In this title:

(1) ALTERNATIVE APPROACHES.—The term ''alternative approaches'' means ways of reducing the threat of a terrorist release, as well as reducing the consequences of a terrorist release from a chemical source, including approaches that—

(A) use smaller quantities of substances of concern;

(B) replace a substance of concern with a less hazardous substance; or

(C) use less hazardous processes.

(2) CHEMICAL SOURCE.—The term ''chemical source'' means a non-Federal stationary source (as defined in section 112(r)(2) of the Clean Air Act (42 U.S.C. 7412(r)(2))) for which—

(A) the owner or operator is required to complete a risk management plan in accordance with section 112(r)(7)(B)(ii) of the Clean Air Act (42 U.S.C. 7412(r)(7)(B)(ii)); and

(B) the Secretary is required to promulgate implementing regulations under section ____03(a) of this title.

(3) CONSIDERATION.—The term ''consideration'' includes—

(A) an analysis of alternative approaches, including the benefits and risks of such approaches;

(B) the potential of the alternative approaches to prevent or reduce the threat or consequences of a terrorist release;

(C) the cost and technical feasibility of alternative approaches; and

(D) the effect of alternative approaches on product quality, product cost, and employee safety.

(4) DEPARTMENT.—The term ''Department'' means the Department of Homeland Security.

(5) ENVIRONMENT.—The term ''environment'' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(6) OWNER OR OPERATOR.—The term ''owner or operator'' has the meaning given the term in section 112(a) of the Clean Air Act (42 U.S.C. 7412(a)).

(7) RELEASE.—The term ''release'' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(8) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(9) SECURITY MEASURE.—

(A) IN GENERAL.—The term ''security measure'' means an action carried out to ensure or enhance the security of a chemical source.

(B) INCLUSIONS.—The term ''security measure'', with respect to a chemical source, includes measures such as—

(i) an employee training and background check;

(ii) the limitation and prevention of access to controls of the chemical source;

(iii) the protection of the perimeter of the chemical source;

(iv) the installation and operation of intrusion detection sensors;

(v) the implementation of measures to increase computer or computer network security;

(vi) the implementation of other security-related measures to protect against or reduce the threat of—

(I) a terrorist attack on the chemical source; or

(II) the theft of a substance of concern for offsite release in furtherance of an act of terrorism;

(vii) the installation of measures and controls to protect against or reduce the consequences of a terrorist attack; and

(viii) the conduct of any similar security-related activity, as determined by the Secretary.

(10) SUBSTANCE OF CONCERN.—The term ''substance of concern'' means—

(A) a chemical substance present at a chemical source in quantities equal to or exceeding the threshold quantities for the chemical substance, as defined in or established under paragraphs (3) and (5) of section 112(r) of the Clean Air Act (42 U.S.C. 7412(r)); and

(B) such other chemical substance as the Secretary may designate under section ____03(g).

(11) TERRORISM.—The term ''terrorism'' has the meaning given the term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(12) TERRORIST RELEASE.—The term ''terrorist release'' means—

(A) a release from a chemical source into the environment of a substance of concern that is caused by an act of terrorism; and

(B) the theft of a substance of concern by a person for off-site release in furtherance of an act of terrorism.

SEC. ____03. VULNERABILITY ASSESSMENTS AND SITE SECURITY PLANS.

(a) REQUIREMENT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations that require the owner or operator of each chemical source included on the list described in subsection (f)(1)—

(A) to conduct an assessment of the vulnerability of the chemical source to a terrorist release, including identifying hazards that may result from a terrorist release; and

(B) to prepare and implement a site security plan that addresses the results of the vulnerability assessment.

(2) CONTENTS OF SITE SECURITY PLAN.—A site security plan required under the regulations promulgated under paragraph (1) or any other plan determined to be substantially equivalent by the Secretary under subsection (c)—

(A) shall include security measures to significantly reduce the vulnerability of the chemical source covered by the plan to a terrorist release;

(B) shall describe, at a minimum, particular equipment, plans, and procedures that could be implemented or used by or at the chemical source in the event of a terrorist release; and

(C) shall include consideration and, where practicable in the judgment of the owner or operator of the chemical source, implementation of options to reduce the threat of a terrorist release through the use of alternative approaches.

(3) PROMULGATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations establishing procedures, protocols, regulations, and standards for vulnerability assessments and site security plans.

(4) GUIDANCE TO SMALL ENTITIES.—Not later than 1 year after the date of enactment of this Act, the Secretary shall publish guidance to assist small entities in complying with paragraph (2)(C).

(5) THREAT INFORMATION.—To the maximum extent practicable under applicable authority and in the interests of national security, the Secretary shall provide to an owner or operator of a chemical source required to prepare a vulnerability assessment and site security plan threat information that is relevant to the chemical source.

(6) COORDINATED ASSESSMENTS AND PLANS.—The regulations promulgated under paragraphs (1) and (3) shall permit the development and implementation of coordinated vulnerability assessments and site security plans in any case in which more than 1 chemical source is operating at a single location or at contiguous locations, including cases in which a chemical source is under the control of more than 1 owner or operator.

(b) CERTIFICATION AND SUBMISSION.—

(1) IN GENERAL.—Each owner or operator of a chemical source shall certify in writing to the Secretary that the owner or operator has completed a vulnerability assessment and has developed and implemented or is implementing a site security plan in accordance with this title, including—

(A) regulations promulgated under paragraphs (1) and (3) of subsection (a); and

(B) any applicable procedures, protocols, or standards endorsed or recognized by the Secretary under subsection (c)(1).

(2) SUBMISSION.—Not later than 18 months after the date of promulgation of regulations under paragraphs (1) and (3) of subsection (a), an owner or operator of a chemical source shall provide to the Secretary copies of the vulnerability assessment and site security plan of the chemical source for review.

(3) OVERSIGHT.—The Secretary shall, at such times and places as the Secretary determines to be appropriate, conduct or require the conduct of vulnerability assessments and other activities (including third-party audits) to ensure and evaluate compliance with—

(A) this title (including regulations promulgated under paragraphs (1) and (3) of subsection (a)); and

(B) other applicable procedures, protocols, or standards endorsed or recognized by the Secretary under subsection (c)(1).

(4) SUBMISSION OF CHANGES.—The owner or operator of a chemical source shall—

(A) provide to the Secretary a description of any significant change that is made to the vulnerability assessment or site security plan required for the chemical source under this section, not later than 90 days after the date the change is made; and

(B) update the certification of the vulnerability assessment or site security plan.

(c) SPECIFIED STANDARDS.—

(1) EXISTING PROCEDURES, PROTOCOLS, AND STANDARDS.—Upon submission of a petition by any person to the Secretary, and after receipt by that person of a written response from the Secretary, any procedures, protocols, and standards established by the Secretary under regulations promulgated under subsection (a)(3) may—

(A) endorse or recognize procedures, protocols, regulations, and standards—

(i) that are established by—

(I) industry;

(II) State or local authorities; or

(III) other applicable law; and

(ii) the requirements of which the Secretary determines to be—

(I) substantially equivalent to the requirements under subsections (a)(1), (a)(2), and (a)(3); and

(II) in effect on or after the date of enactment of this Act; and

(B) require that a vulnerability assessment and site security plan address a particular threat or type of threat.

(2) NOTIFICATION OF SUBSTANTIAL EQUIVALENCY.—If the Secretary endorses or recognizes existing procedures, protocols, regulations, and standards described in paragraph (1)(A), the Secretary shall provide to the person that submitted the petition a notice that the procedures, protocols, regulations, and standards are substantially equivalent to the requirements of paragraph (1) and paragraphs (1) and (3) of subsection (a).

(3) NO ACTION BY SECRETARY.—If the Secretary does not endorse or recognize existing

procedures, protocols, and standards described in paragraph (1)(A), the Secretary shall provide to each person that submitted a petition under paragraph (1) a written notification that includes a clear explanation of the reasons why the endorsement or recognition was not made.

(d) PREPARATION OF ASSESSMENTS AND PLANS.—As of the date of endorsement or recognition by the Secretary of a particular procedure, protocol, or standard under subsection (c)(1)(A), any vulnerability assessment or site security plan that is prepared by a chemical source before, on, or after the date of endorsement or recognition of, and in accordance with, that procedure, protocol, or standard, shall, for the purposes of subsection (b)(3) and section ___04, be judged by the Secretary against that procedure, protocol, or standard rather than the relevant regulations promulgated under subsection (c) and paragraphs (1) and (3) of subsection (a) (including such a vulnerability assessment or site security plan prepared before, on, or after the date of enactment of this Act).

(e) REGULATORY CRITERIA.—In exercising the authority under subsections (a) and (c) with respect to a chemical source, the Secretary shall consider—

(1) the likelihood that a chemical source will be the target of terrorism;

(2) the nature and quantity of the substances of concern present at a chemical source;

(3) the potential extent of death, injury, or serious adverse effects to human health or the environment that would result from a terrorist release;

(4) the potential harm to critical infrastructure and national security from a terrorist release;

(5) cost and technical feasibility;

(6) scale of operations; and

(7) such other security-related factors as the Secretary determines to be appropriate and necessary to protect the public health and welfare, critical infrastructure, and national security.

(f) LIST OF CHEMICAL SOURCES.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall develop a list of chemical sources in existence as of that date.

(2) CONSIDERATIONS.—In developing the list under paragraph (1), the Secretary shall consider the criteria specified in subsection (e).

(3) FUTURE DETERMINATIONS.—Not later than 3 years after the date of promulgation of regulations under subsection (c) and paragraphs (1) and (3) of subsection (a), and every 3 years thereafter, the Secretary shall, after considering the criteria described in subsection (e)—

(A) determine whether additional facilities (including, as of the date of the determination, facilities that are operational and facilities that will become operational in the future) shall be considered to be a chemical source under this title;

(B) determine whether any chemical source identified on the most recent list under paragraph (1) no longer presents a risk sufficient to justify retention of classification as a chemical source under this title; and

(C) update the list as appropriate.

(4) REGULATIONS.—The Secretary may make a determination under this subsection in regulations promulgated under paragraphs (1) and (3) of subsection (a).

(g) DESIGNATION, EXEMPTION, AND ADJUSTMENT OF THRESHOLD QUANTITIES OF SUBSTANCES OF CONCERN.—

(1) IN GENERAL.—The Secretary may, by regulation—

(A) designate certain chemical substances in particular threshold quantities as substances of concerns under this title;

(B) exempt certain chemical substances from designation as substances of concern under this title; and

(C) adjust the threshold quantity of a chemical substance.

(2) CONSIDERATIONS.—In designating or exempting a chemical substance or adjusting the threshold quantity of a chemical substance under paragraph (1), the Secretary shall consider the potential extent of death, injury, or serious adverse effects to human health or the environment that would result from a terrorist release of the chemical substance.

(3) REGULATIONS.—The Secretary may make a designation, exemption, or adjustment under paragraph (1) in regulations promulgated under paragraphs (1) and (3) of subsection (a).

(h) 5-YEAR REVIEW.—Not later than 5 years after the date of certification of a vulnerability assessment and a site security plan under subsection (b)(1), and not less often than every 5 years thereafter (or on such a schedule as the Secretary may establish by regulation), the owner or operator of the chemical source covered by the vulnerability assessment or site security plan shall—

(1) review the adequacy of the vulnerability assessment and site security plan; and

(2)(A) certify to the Secretary that the chemical source has completed the review and implemented any modifications to the site security plan; and

(B) submit to the Secretary a description of any changes to the vulnerability assessment or site security plan.

(i) PROTECTION OF INFORMATION.—

(1) DISCLOSURE EXEMPTION.—Except with respect to certifications specified in subsections (b)(1)(A) and (h)(2)(A), vulnerability assessments and site security plans obtained in accordance with this title, and materials developed or produced exclusively in preparation of those documents (including information shared with Federal, State, and local government entities under paragraphs (3) through (5)), shall be exempt from disclosure under—

(A) section 552 of title 5, United States Code; or

(B) any State or local law providing for public access to information.

(2) NO EFFECT ON OTHER DISCLOSURE.—Nothing in this title affects the handling, treatment, or disclosure of information obtained from chemical sources under any other law.

(3) DEVELOPMENT OF PROTOCOLS.—

(A) IN GENERAL.—The Secretary, in consultation with the Director of the Office of Management and Budget and appropriate Federal law enforcement and intelligence officials, and in a manner consistent with existing protections for sensitive or classified information, shall, by regulation, establish confidentiality protocols for maintenance and use of information that is obtained from owners or operators of chemical sources and provided to the Secretary under this title.

(B) REQUIREMENTS FOR PROTOCOLS.—A protocol established under subparagraph (A) shall ensure that—

(i) each copy of a vulnerability assessment or site security plan submitted to the Secretary, all information contained in or derived from that assessment or plan, and other information obtained under section ___06, is maintained in a secure location; and

(ii) except as provided in paragraph (5)(B), or as necessary for judicial enforcement, access to the copies of the vulnerability assessments and site security plans submitted to the Secretary, and other information obtained under section ___06, shall be limited to persons designated by the Secretary.

(4) DISCLOSURE IN CIVIL PROCEEDINGS.—In any Federal or State civil or administrative proceeding in which a person seeks to compel the disclosure or the submission as evidence of sensitive information contained in a vulnerability assessment or security plan required by subsection (a) or (b) and is not otherwise subject to disclosure under other provisions of law—

(A) the information sought may be submitted to the court under seal; and

(B) the court, or any other person, shall not disclose the information to any person until the court, in consultation with the Secretary, determines that the disclosure of the information does not pose a threat to public security or endanger the life or safety of any person.

(5) PENALTIES FOR UNAUTHORIZED DISCLOSURE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any individual referred to in paragraph (3)(B)(ii) who acquires any information described in paragraph (3)(A) (including any reproduction of that information or any information derived from that information), and who knowingly or recklessly discloses the information, shall—

(i) be imprisoned not more than 1 year, fined in accordance with chapter 227 of title 18, United States Code (applicable to class A misdemeanors), or both; and

(ii) be removed from Federal office or employment.

(B) EXCEPTIONS.—

(i) IN GENERAL.—Subparagraph (A) shall not apply to a person described in that subparagraph that discloses information described in paragraph (3)(A)—

(I) to an individual designated by the Secretary under paragraph (3)(B)(ii);

(II) for the purpose of section ___06; or

(III) for use in any administrative or judicial proceeding to impose a penalty for failure to comply with a requirement of this title.

(ii) LAW ENFORCEMENT OFFICIALS AND FIRST RESPONDERS.—Notwithstanding subparagraph (A), an individual referred to in paragraph (3)(B)(ii) who is an officer or employee of the United States may share with a State or local law enforcement or other official (including a first responder) the contents of a vulnerability assessment or site security plan, or other information described in that paragraph, to the extent disclosure is necessary to carry out this title.

SEC. ___04. ENFORCEMENT.

(a) FAILURE TO COMPLY.—If an owner or operator of a chemical source fails to certify or submit a vulnerability assessment or site security plan in accordance with this title, the Secretary may issue an order requiring the certification and submission of a vulnerability assessment or site security plan in accordance with section ___03(b).

(b) DISAPPROVAL.—The Secretary may disapprove under subsection (a) a vulnerability assessment or site security plan submitted under section ___03(b) if the Secretary determines that—

(1) the vulnerability assessment or site security plan does not comply with regulations promulgated under paragraph (1) and (3) of subsection (a) or the procedure, protocol, or standard endorsed or recognized under section ___03(c); or

(2) the site security plan, or the implementation of the site security plan, is insufficient to address—

(A) the results of a vulnerability assessment of a chemical source; or

(B) a threat of a terrorist release.

(c) COMPLIANCE.—If the Secretary disapproves a vulnerability assessment or site

security plan of a chemical source under subsection (b), the Secretary shall—

(1) provide the owner or operator of the chemical source a written notification of the determination that includes a clear explanation of deficiencies in the vulnerability assessment, site security plan, or implementation of the assessment or plan;

(2) consult with the owner or operator of the chemical source to identify appropriate steps to achieve compliance; and

(3) if, following that consultation, the owner or operator of the chemical source does not achieve compliance in accordance by such date as the Secretary determines to be appropriate under the circumstances, issue an order requiring the owner or operator to correct specified deficiencies.

(d) EMERGENCY POWERS.—

(1) DEFINITION OF EMERGENCY THREAT.—The term ''emergency threat'' means a threat of a terrorist act that could result in a terrorist release at a chemical source—

(A) that is beyond the scope of the site security plan as implemented at the chemical source;

(B) the likelihood of the immediate occurrence of which is high;

(C) the consequences of which would be severe; and

(D) based on the factors described in subparagraphs (A) through (C), would not be appropriately and reasonably addressed, or addressed in a timely manner, by the Secretary under subsections (a) through (c).

(2) INITIATION OF ACTION.—

(A) IN GENERAL.—If the Secretary (in consultation with State and local law enforcement officials) determines that an emergency threat exists, the Secretary may bring a civil action on behalf of the United States in United States district court to immediately require each covered source potentially subject to the emergency threat to take such actions as are necessary to respond to the emergency threat.

(B) NOTICE AND PARTICIPATION.—The Secretary shall provide to each covered source that is the subject of a civil action under subparagraph (A)—

(i) notice of any injunctive relief to compel compliance with this subsection that is being sought; and

(ii) an opportunity to participate in any proceedings relating to the civil action.

(3) EMERGENCY ORDERS.—

(A) IN GENERAL.—If the Secretary determines that it is not practicable to ensure prompt action to protect public safety from an emergency threat by commencing a civil action under paragraph (2), the Secretary may issue such orders as are necessary to ensure public safety.

(B) CONSULTATION.—Before issuing an order under subparagraph (A), the Secretary shall—

(i) consult with State and local law enforcement officials; and

(ii) attempt to confirm the accuracy of the information on which the action proposed to be taken is based.

(C) EFFECTIVENESS OF ORDERS.—

(i) IN GENERAL.—An order issued by the Secretary under this paragraph shall be effective for the 60-day period beginning on the date of issuance of the order unless the Secretary files a civil action under paragraph (2) before the expiration of that period.

(ii) EXTENSION OF EFFECTIVE PERIOD.—With respect to an order issued under this paragraph, the Secretary may file a civil action before the end of the 60-day period described in clause (i) to extend the effective period of the order for—

(I) 14 days; or

(II) such longer period as the court in which the civil action is filed may authorize.

(e) PROTECTION OF INFORMATION.—Any determination of disapproval or order made or issued under this section shall be exempt from disclosure—

(1) under section 552 of title 5, United States Code;

(2) under any State or local law providing for public access to information; and

(3) except as provided in section ____03(i)(4), in any Federal or State civil or administrative proceeding.

SEC. ____05. INTERAGENCY TECHNICAL SUPPORT AND COOPERATION.

The Secretary—

(1) may request other Federal agencies to provide technical and analytical support (other than field work) in implementing this title; and

(2) may provide reimbursement for such technical and analytical support received as the Secretary determines to be appropriate.

SEC. ____06. RECORDKEEPING; SITE INSPECTIONS; PRODUCTION OF INFORMATION.

(a) RECORDKEEPING.—The owner or operator of a chemical source that is required to prepare a vulnerability assessment or site security plan under section ____03(a) shall maintain a current copy of those documents.

(b) RIGHT OF ENTRY.—In carrying out this title, the Secretary (or a designee), on presentation of credentials, shall have a right of entry to, on, or through—

(1) any premises of an owner or operator of a chemical source described in subsection (a); and

(2) any premises on which any record required to be maintained under subsection (a) is located.

(c) REQUESTS FOR RECORDS.—In carrying out this title, the Secretary (or a designee) may require the submission of, or, on presentation of credentials, may at reasonable times seek access to and copy—

(1) any records, reports, or other information described in subsection (a); and

(2) any other documentation necessary for—

(A) review or analysis of a vulnerability assessment or site security plan; or

(B) implementation of a site security plan.

(d) COMPLIANCE.—If the Secretary determines that an owner or operator of a chemical source is not maintaining, producing, or permitting access to records as required by this section, the Secretary may issue an order requiring compliance with the relevant provisions of this section.

SEC. ____0 7. PENALTIES.

(a) JUDICIAL RELIEF.—Any owner or operator of a chemical source that violates or fails to comply with any order issued by the Secretary under this title or a site security plan submitted to the Secretary under this title (or, in the case of an exemption described in section ____03(d), a procedure, protocol, or standard endorsed or recognized by the Secretary under section ____03(c)) may, in a civil action brought in United States district court, be subject, for each day on which the violation occurs or the failure to comply continues, to—

(1) an order for injunctive relief; or

(2) a civil penalty of not more than $50,000.

(b) ADMINISTRATIVE PENALTIES.—

(1) PENALTY ORDERS.—The Secretary may issue an administrative penalty of not more than $250,000 for failure to comply with an order issued by the Secretary under this title.

(2) NOTICE AND HEARING.—Before issuing an order described in paragraph (1), the Secretary shall provide to the person against which the penalty is to be assessed—

(A) written notice of the proposed order; and

(B) the opportunity to request, not later than 30 days after the date on which the person receives the notice, a hearing on the proposed order.

(3) PROCEDURES.—The Secretary may promulgate regulations outlining the procedures for administrative hearings and appropriate review, including necessary deadlines.

(c) TREATMENT OF INFORMATION IN JUDICIAL PROCEEDINGS.—Information submitted or obtained by the Secretary, information derived from that information, and information submitted by the Secretary under this title (except under section ____011) shall be treated in any judicial or administrative action as if the information were classified material.

SEC. ____08. PROVISION OF TRAINING.

The Secretary may provide training to State and local officials and owners and operators in furtherance of the purposes of this title.

SEC. ____09. JUDICIAL REVIEW.

(a) REGULATIONS.—Not later than 60 days after the date of promulgation of a regulation under this title, any person may file a petition for judicial review relating to the regulation with—

(1) the United States Court of Appeals for the District of Columbia; or

(2) with the United States circuit court—

(A) having jurisdiction over the State in which the person resides; or

(B) for the circuit in which the principal place of business of the person is located.

(b) FINAL AGENCY ACTIONS OR ORDERS.—Not later than 60 days after the date on which a covered source receives notice of an action or order of the Secretary under this title with respect to the chemical source, the chemical source may file a petition for judicial review of the action or order with the United States district court for the district in which—

(1) the chemical source is located; or

(2) the owner or operator of the chemical source has a principal place of business.

(c) STANDARD OF REVIEW.—

(1) IN GENERAL.—On the filing of a petition under subsection (a) or (b), the court of jurisdiction shall review the regulation or other final action or order that is the subject of the petition in accordance with chapter 7 of title 5, United States Code.

(2) BASIS.—

(A) IN GENERAL.—Judicial review of a regulation, or of a final agency action or order described in paragraph (1) that is based on an administrative hearing held on the record, shall be based on the record of the proceedings, comments, and other information that the Secretary considered in promulgating the regulation, taking the action, or issuing the order being reviewed.

(B) OTHER ACTIONS AND ORDERS.—Judicial review of a final agency action or order described in paragraph (1) that is not described in subparagraph (A) shall be based on any submissions to the Secretary relating to the action or order, and any other information, that the Secretary considered in taking the action or issuing the order.

SEC. ____10. NO EFFECT ON REQUIREMENTS UNDER OTHER LAW.

(a) IN GENERAL.—Except as provided in section ____03(i), nothing in this title affects any duty or other requirement imposed under any other Federal or State law.

(b) OTHER FEDERAL LAW.—

(1) IN GENERAL.—Notwithstanding subsection (a), a chemical source that is required to prepare a facility vulnerability assessment and implement a facility security plan under any another Federal law may petition the Secretary to be subject to the other Federal law in lieu of this title.

(2) DETERMINATION OF SUBSTANTIAL EQUIVALENCE.—If the Secretary determines that a Federal law covered by a petition submitted by a chemical source under paragraph (1) is substantially equivalent to this title—

(A) the Secretary may grant the petition; and

(B) the chemical source shall be subject to the other Federal law in lieu of this title.

SEC. ___11. AGRICULTURAL BUSINESS SECURITY GRANT PROGRAM.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term ''eligible entity'' means a retail or production agricultural business (including a business that is engaged in the production or processing of seafood) that employs not more than such number of individuals at a chemical source included in the list described in section ___03(f)(1) as shall be determined by the Secretary, in consultation with the Administrator of the Small Business Administration and the Secretary of Agriculture.

(b) GRANTS.—The Secretary shall provide grants to an eligible entity that is a chemical source included in the list described in section ___03(f)(1) selected under this section to enable the eligible entity at the chemical source—

(1) to improve security measures; and

(2) to protect against or reduce the consequence of a terrorist attack.

(c) CRITERIA.—In establishing criteria for the selection of, or in otherwise selecting, eligible entities to receive a grant under this section, the Secretary shall—

(1) consider on an individual, location-by-location basis, each applicant for a grant; and

(2) require each eligible entity that receives a grant to use funds from the grant only for the purposes described in subsection (b) in accordance with guidance of the Secretary.

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

SA 3928. Mr. SESSIONS 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:

At the end add the following new title:

TITLE IV—OTHER MATTERS

SEC. 401. VISA REQUIREMENTS.

Section 222 of the Immigration and Nationality Act (22 U.S.C. 1202) is amended by adding at the end the following new subsection:

''(h) Every alien applying for a nonimmigrant visa shall, prior to obtaining such visa, swear or affirm an oath stating that—

''(1) while in the United States, the alien shall, adhere to the laws and to the Constitution of the United States;

''(2) while in the United States, the alien will not attempt to develop information for the purpose of threatening the national security of the United States or to bring harm to any citizen of the United States;

''(3) the alien is not associated with a terrorist organization;

''(4) the alien has not and will not receive any funds or other support to visit the United States from a terrorist organization;

''(5) all documents submitted to support the alien's application are valid and contain truthful information;

''(6) while in the United States, the alien will inform the appropriate authorities if the alien is approached or contacted by a member of a terrorist organization; and

''(7) the alien understands that the alien's visa shall be revoked and the alien shall be removed from the United States if the alien is found—

''(A) to have acted in a manner that is inconsistent with this oath; or

''(B) provided fraudulent information in order to obtain a visa.''.

SA 3929. Mr. CORNYN 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; follows:

At the appropriate place, insert the following:

SEC. ___. RESTRICTION ON ISSUANCE OF MULTIPLE REPLACEMENT SOCIAL SECURITY CARDS.

(a) IN GENERAL.—Section 205(c)(2)(G) of the Social Security Act (42 U.S.C. 405(c)(2)(G)) is amended by adding at the end the following: ''The Commissioner shall restrict the issuance of multiple replacement social security cards to any individual to not more than 3 per year and not more than 10 for the life of the individual, except in any case in which the Commissioner determines there is minimal opportunity for fraud.''.

(b) RULEMAKING.—The Commissioner of Social Security shall issue regulations to carry out the amendment made by subsection (a) not later than 1 year after the date of enactment of this Act.

(c) EFFECTIVE DATE.—Systems controls developed by the Commissioner of Social Security pursuant to the amendment made by subsection (a) shall take effect upon the earlier of—

(1) the date of issuance of regulations under subsection (b); or

(2) the end of the 1-year period beginning on the date of enactment of this Act.

SA 3930. Mr. MCCONNELL (for himself and Mr. CORNYN) 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:

At the appropriate place, insert the following:

SEC. ___. FIRST RESPONDER CITIZEN VOLUNTEER PROTECTION ACT.

(a) SHORT TITLE.—This section may be cited as the ''First Responder Citizen Volunteer Protection Act''.

(b) IMPORTANCE OF VOLUNTEERS.—Section 2(a) of the Volunteer Protection Act of 1997 (42 U.S.C. 14501(a)) is amended—

(1) in paragraph (6), by striking ''and'' after the semicolon;

(2) by redesignating paragraph (7) as paragraph (8); and

(3) by inserting after paragraph (6) the following:

''(7) since the attacks of September 11, 2001, the Federal Government has encouraged Americans to serve their country as citizen volunteers for programs such as the Volunteers in Police Service (VIPS), Medical Reserve Corps (MRC), Community Emergency Response Team (CERT), Neighborhood Watch, and Fire Corps, which help increase our homeland security preparedness and response, and which provide assistance to our fire, police, health, and medical personnel, and fellow citizens in the event of a natural or manmade disaster, terrorist attack, or act of war; and''.

(c) CITIZEN VOLUNTEER PROGRAM.—Section 6 of the Volunteer Protection Act of 1997 (42 U.S.C. 14505) is amended by adding at the end the following:

''(7) GOVERNMENTAL ENTITY.—The term 'government entity' means for purposes of this Act—

''(A) Federal or State Government, including any political subdivision or agency thereof; and

''(B) a federally-established or funded citizen volunteer program, including those coordinated by the USA Freedom Corps established by Executive order 13254 (February 1, 2002), and the program's components and State and local affiliates.

SA 3931. Mr. MCCONNELL (for himself, Mr. SANTORUM, and Mr. CORNYN) 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:

At the appropriate place, insert the following:

TITLE ___. VOLUNTEER FIREFIGHTER ASSISTANCE

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Good Samaritan Volunteer Firefighter Assistance Act of 2004''.

SEC. ___02. REMOVAL OF CIVIL LIABILITY BARRIERS THAT DISCOURAGE THE DONATION OF FIRE EQUIPMENT TO VOLUNTEER FIRE COMPANIES.

(a) LIABILITY PROTECTION.—A person who donates fire control or fire rescue equipment to a volunteer fire company shall not be liable for civil damages under any State or Federal law for personal injuries, property damage or loss, or death proximately caused by the equipment after the donation.

(b) EXCEPTIONS.—Subsection (a) shall not apply to a person if—

(1) the person's act or omission proximately causing the injury, damage, loss, or death constitutes gross negligence or intentional misconduct; or

(2) the person is the manufacturer of the fire control or fire rescue equipment.

(c) PREEMPTION.—This title preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that this title shall not preempt any State law that provides additional protection from liability for a person who donates fire control or fire rescue equipment to a volunteer fire company.

(d) DEFINITIONS.—In this section:

(1) PERSON.—The term ''person'' includes any governmental or other entity.

(2) FIRE CONTROL OR RESCUE EQUIPMENT.—The term ''fire control or fire rescue equipment'' includes any fire vehicle, fire fighting tool, communications equipment, protective gear, fire hose, or breathing apparatus.

(3) STATE.—The term ''State'' includes the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, any other territory or possession of the United States, and any political subdivision of any such State, territory, or possession.

(4) VOLUNTEER FIRE COMPANY.—The term ''volunteer fire company'' means an association of individuals who provide fire protection and other emergency services, where at least 30 percent of the individuals receive little or no compensation compared with an entry level full-time paid individual in that association or in the nearest such association with an entry level full-time paid individual.

(e) EFFECTIVE DATE.—This title applies only to liability for injury, damage, loss, or death caused by equipment that, for purposes of subsection (a), is donated on or after

the date that is 30 days after the date of enactment of this Act.

SEC. 3. STATE-BY-STATE REVIEW OF DONATION OF FIREFIGHTER EQUIPMENT.

(a) REVIEW.—The Attorney General of the United States shall conduct a State-by-State review of the donation of firefighter equipment to volunteer firefighter companies during the 5-year period ending on the date of enactment of this Act.

(b) REPORT.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Attorney General of the United States shall publish and submit to Congress a report on the results of the review conducted under subsection (a).

(2) CONTENTS.—The report published and submitted under paragraph (1) shall include, for each State—

(A) the most effective way to fund firefighter companies;

(B) whether first responder funding is sufficient to respond to the Nation's needs; and

(C) the best method to ensure that the equipment donated to volunteer firefighter companies is in usable condition.

SA 3932. Ms. SNOWE submitted an amendment intended to be proposed by her 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 153, between lines 2 and 3, insert the following:

SEC. 207. ALTERNATIVE ANALYSES OF INTELLIGENCE BY THE INTELLIGENCE COMMUNITY.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the National Intelligence Director should consider the advisability of establishing for each element of the intelligence community an element, office, or component whose purpose is the alternative analysis (commonly referred to as a ''red-team analysis'') of the information and conclusions in the intelligence products of such element of the intelligence community.

(b) REPORT.—(1) Not later than one year after the date of the enactment of this Act, the National Intelligence Director shall submit to Congress a report on the actions taken to establish for each element of the intelligence community an element, office, or component described in subsection (a).

(2) The report shall be submitted in an unclassified form, but may include a classified annex.

SA 3933. Ms. CANTWELL (for herself, Mr. SESSIONS, Mr. SCHUMER, and Mr. KYL) submitted an amendment intended to be proposed by her 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:

At the appropriate place, insert the following:

SEC. ___. BIOMETRIC STANDARD FOR VISA APPLICATIONS.

(a) SHORT TITLE.—This section may be cited as the ''Biometric Visa Standard Distant Borders Act''.

(b) TECHNOLOGY STANDARD FOR VISA WAIVER PARTICIPANTS.—Section 303(c) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732(c)) is amended to read as follows:

''(c) TECHNOLOGY STANDARD FOR VISA WAIVER PARTICIPANTS.—

''(1) IN GENERAL.—Not later than October 26, 2005, the government of each country that is designated to participate in the visa waiver program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) shall certify, as a condition for designation or continuation of that designation, that the country has a program to issue to individuals seeking to enter that country pursuant to a visa issued by that country, a machine readable visa document that is tamper-resistant and incorporates biometric identification information that is verifiable at its port of entry, and compatible with the biometric identifiers collected by the United States Visitor and Immigrant Status Indicator Technology Program (US-VISIT).

''(2) SAVINGS CLAUSE.—This subsection shall not be construed to rescind the requirement of section 217(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1187(a)(3)).''.

SA 3934. Mr. GREGG 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 7, line 25, strike the period and insert ''; and''.

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

(C) does not refer to the Office of Intelligence Policy and Review of the Department of Justice or to any program, project, or activity of the Federal Bureau of Investigation that is not under the direct control of the Executive Assistant Director for Intelligence of the Federal Bureau of Investigation.

On page 41, line 12, strike ''CONCURRENCE OF'' and insert ''CONSULTATION WITH''.

On page 41, beginning on line 15, strike ''obtain the concurrence of'' and insert ''consult with''.

On page 41, beginning on line 19, strike ''If the Director'' and all that follows through line 25.

On page 42, strike line 10 and all that follows through line 25.

On page 85, beginning on line 10, strike ''obtain the concurrence of'' and insert ''consult with''.

On page 85, beginning on line 14, strike ''If the Director'' and all that follows through line 20.

On page 120, beginning on line 17, strike '', subject to the direction and control of the President,''.

On page 121, line 13, strike ''and analysts'' and insert '', analysts, and related personnel''.

On page 121, line 17, strike ''and analysts'' and insert '', analysts, and related personnel''.

On page 121, line 19, strike ''and analysts'' and insert '', analysts, and related personnel''.

On page 123, beginning on line 8, strike '', in consultation with the Director of the Office of Management and Budget, modify the'' and insert ''establish a''.

On page 123, line 11, strike ''in order to organize the budget according to'' and insert ''to reflect''.

On page 123, strike line 4 through line 8.

SA 3935. Mr. WARNER 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:

''(a) On page 209, after line 14, insert the following:

''(b) Not later than 180 days after the date of the enactment of this Act, the National Intelligence Director, in consultation with heads of departments containing elements of the intelligence community, shall submit to Congress an Implementation Plan for Intelligence Community Reform. The Implementation Plan shall include the following:

''(1) A detailed plan for how the authorities set forth in Title I Section 113 of this Act for the National Intelligence Program Budget and resources will be implemented, including but not limited to (a) the process for development of budgets, allocation of resources, transfer of personnel and reprogramming; (b) specific lines of authority and reporting that will be used in these processes; and (c) identification of potential obstacles or legal issues with implementation;

''(2) A detailed description of how the National Intelligence Director and the National Intelligence Authority will interact with the Secretary of Defense and Department of Defense on intelligence issues. In particular this shall describe what elements of the DoD will be subject to the authority that this Act provides the National Intelligence Director, how that authority will be exercised, and how disagreements about the exercise of that authority will be resolved. In addition, this shall describe how the National Intelligence Director will assure that combat forces will continue to receive optimal intelligence support under the new structure established by this Act.

''(3) A detailed description of how the National Intelligence Director and the National Intelligence Authority will interact with the Attorney General, the Director of the FBI, and the FBI on intelligence issues. In particular this shall describe what elements of the FBI will be subject to the authority that this Act provides the National Intelligence Director, how that authority will be exercised, and how disagreements about the exercise of that authority will be resolved. In addition, this shall describe how the authority that this Act provides the National Intelligence Director will be exercised consistent with the responsibility of the Attorney General to oversee activities of the FBI.

''(4) A detailed description of precisely how the authorities and responsibilities of the new National Counterterrorism Center established by this Act are being implemented, including mechanisms for merging domestic and foreign information and authorities for tasking or direction of intelligence collection and how those mechanisms protect the civil liberties of U.S. Persons.

''(5) A detailed description of steps the National Intelligence Director will take to address the quality and independence of analysis within the new structure established by this Act.

''(6) A detailed description of the roles of the National Intelligence Authority staff officers created in Title I Sections 124–131 of this Act and how those officers interact with each other and other government departments and agencies.

''The National Intelligence Director shall submit the Implementation Plan to the Congress.''.

''(b) Insert ''(a)'' before ''Not later'' in line 7 of page 209.

SA 3936. Mr. HATCH 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 125, between lines 13 and 14, insert the following:

(c) ESTABLISHMENT OF SENIOR INTELLIGENCE SERVICE.—

(1) IN GENERAL.—The Director of the Federal Bureau of Investigation, in consultation with the Director of the Office of Personnel Management, may—

(A) establish a Senior Intelligence Service within the Federal Bureau of Investigation in order to meet the intelligence obligations of the Federal Bureau of Investigation; and

(B) appoint individuals to positions in the Senior Intelligence Service.

(2) REGULATIONS.—The Director of the Federal Bureau of Investigation shall prescribe regulations for purposes of paragraph (1), which regulations shall be consistent with personnel authorities and practices established pursuant to section 3151 of title 5, United States Code.

(d) ESTABLISHMENT OF INTELLIGENCE SENIOR LEVEL POSITIONS.—The Director of the Federal Bureau of Investigation, in consultation with the Director of the Office of Personnel Management, may—

(1) establish Intelligence Senior Level positions within the Federal Bureau of Investigation in order to meet the intelligence obligations of the Federal Bureau of Investigation, which positions may be classified to rates of pay payable for grades above grade GS–15 of the General Schedule; and

(2) appoint individuals to such Intelligence Senior Level positions.

On page 125, line 14, strike ''(c)'' and insert ''(e)''.

On page 126, line 5, strike ''(d)'' and insert ''(f)''.

SA 3937. Mr. HATCH 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:

At the end, insert the following new title:

TITLE IV—IMMIGRATION

SEC. 401. JUDICIAL REVIEW OF ORDERS OF REMOVAL.

(a) IN GENERAL.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraphs (A), (B), and (C), by inserting ''(statutory and nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of title 28, United States Code'' after ''Notwithstanding any other provision of law''; and

(ii) by adding at the end the following:

''(D) JUDICIAL REVIEW OF CERTAIN LEGAL CLAIMS.—Nothing in this paragraph shall be construed as precluding consideration by the circuit courts of appeals of constitutional claims or pure questions of law raised upon petitions for review filed in accordance with this section. Notwithstanding any other provision of law (statutory and nonstatutory), including section 2241 of title 28, United States Code, or, except as provided in subsection (e), any other habeas corpus provision, and sections 1361 and 1651 of title 28, United States Code, such petitions for review shall be the sole and exclusive means of raising any and all claims with respect to orders of removal entered or issued under any provision of this Act.''; and

(B) by adding at the end the following:

''(4) CLAIMS UNDER THE UNITED NATIONS CONVENTION.—Notwithstanding any other provision of law (statutory and nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of title 28, United States Code, a petition for review by the circuit courts of appeals filed in accordance with this section is the sole and exclusive means of judicial review of claims arising under the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment.

''(5) EXCLUSIVE MEANS OF REVIEW.—The judicial review specified in this subsection shall be the sole and exclusive means for review by any court of an order of removal entered or issued under any provision of this Act. For purposes of this title, in every provision that limits or eliminates judicial review or jurisdiction to review, the terms 'judicial review' and 'jurisdiction to review' include habeas corpus review pursuant to section 2241 of title 28, United States Code, or any other habeas corpus provision, sections 1361 and 1651 of title 28, United States Code, and review pursuant to any other provision of law.'';

(2) in subsection (b)—

(A) in paragraph (3)(B), by inserting ''pursuant to subsection (f)'' after ''unless''; and

(B) in paragraph (9), by adding at the end the following: ''Except as otherwise provided in this subsection, no court shall have jurisdiction, by habeas corpus under section 2241 of title 28, United States Code, or any other habeas corpus provision, by section 1361 or 1651 of title 28, United States Code, or by any other provision of law (statutory or nonstatutory), to hear any cause or claim subject to these consolidation provisions.'';

(3) in subsection (f)(2), by inserting ''or stay, by temporary or permanent order, including stays pending judicial review,'' after ''no court shall enjoin''; and

(4) in subsection (g), by inserting ''(statutory and nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of title 28, United States Code'' after ''notwithstanding any other provision of law''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply only to an alien who has been convicted of an offense that is related to terrorism and that is described in section 2332b(g)(5)(B) of title 18, United States Code.

(c) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to cases in which the final administrative removal order was issued before, on, or after the date of enactment of this Act.

SEC. 402. ADDITIONAL REMOVAL AUTHORITIES.

(a) IN GENERAL.—Section 241(b) of the Immigration and Nationality Act (8 U.S.C. 1231(b)) is amended—

(1) in paragraph (1)—

(A) in each of subparagraphs (A) and (B), by striking the period at the end and inserting ''unless, in the opinion of the Secretary of Homeland Security, removing the alien to such country would be prejudicial to the United States.''; and

(B) by amending subparagraph (C) to read as follows:

''(C) ALTERNATIVE COUNTRIES.—If the alien is not removed to a country designated in subparagraph (A) or (B), the Secretary of Homeland Security shall remove the alien to—

''(i) the country of which the alien is a citizen, subject, or national, where the alien was born, or where the alien has a residence, unless the country physically prevents the alien from entering the country upon the alien's removal there; or

''(ii) any country whose government will accept the alien into that country.''; and

(2) in paragraph (2)—

(A) by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security'';

(B) by amending subparagraph (D) to read as follows:

''(D) ALTERNATIVE COUNTRIES.—If the alien is not removed to a country designated under subparagraph (A)(i), the Secretary of Homeland Security shall remove the alien to a country of which the alien is a subject, national, or citizen, where the alien was born, or where the alien has a residence, unless—

''(i) such country physically prevents the alien from entering the country upon the alien's removal there; or

''(ii) in the opinion of the Secretary of Homeland Security, removing the alien to the country would be prejudicial to the United States.''; and

(C) by amending subparagraph (E)(vii) to read as follows:

''(vii) Any country whose government will accept the alien into that country.''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply only to a case involving an alien who has been convicted of an offense that is related to terrorism and that is described in section 2332b(g)(5)(B) of title 18, United States Code.

(c) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, the amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to any deportation, exclusion, or removal on or after such date pursuant to any deportation, exclusion, or removal order, regardless of whether such order is administratively final before, on, or after such date.

SEC. 403. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

SA 3938. Mr. HATCH (for himself and Mr. KYL) 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:

At the appropriate place, insert the following:

SEC. ___. FEDERAL COLLATERAL REVIEW OF CONVICTIONS FOR KILLING PUBLIC SAFETY OFFICER.

(a) SHORT TITLE.—This section may be cited as the ''Public Safety Officers' Defense Act''.

(b) SUBSTANTIVE LIMITS.—Section 2254 of title 28, United States Code, is amended by adding at the end the following:

''(j) CRIMES AGAINST PUBLIC SAFETY OFFICER.—

''(1) DEFINITION OF PUBLIC SAFETY OFFICER.—In this subsection, the term 'public safety officer' has the meaning given such term in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b).

''(2) IN GENERAL.—A court, justice, or judge shall not have jurisdiction to consider any claim relating to the judgment or sentence in an application described under paragraph (3), unless the applicant shows that the claim qualifies for consideration on the grounds described in subsection (e)(2). Any such application that is presented to a court, justice, or judge other than a district court shall be transferred to the appropriate district court for consideration or dismissal in conformity with this subsection, except that a court of appeals panel must authorize any

second or successive application in conformity with section 2244 prior to any consideration by the district court.

''(3) APPLICATION OF SUBSECTION.—This subsection shall apply to an application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court for a crime that involved the killing of a public safety officer while the public safety officer was engaged in the performance of official duties, or on account of the public safety officer's performance of official duties.''.

(c) TIME LIMITS.—Section 2254(j) of title 28, United States Code, as added by subsection (b), is amended by adding at the end the following:

''(4) TIME LIMITS IN DISTRICT COURT.—For any application described under paragraph (3), in the district court the following shall apply:

''(A) Any motion by either party for an evidentiary hearing shall be filed and served not later than 90 days after the State files its answer or, if no timely answer is filed, the date on which such answer is due.

''(B) Any motion for an evidentiary hearing shall be granted or denied not later than 30 days after the date on which the party opposing such motion files a pleading in opposition to such motion or, if no timely pleading in opposition is filed, the date on which such pleading in opposition is due.

''(C) Any evidentiary hearing shall be—

''(i) convened not less than 60 days after the order granting such hearing; and

''(ii) completed not more than 150 days after the order granting such hearing.

''(D) A district court shall enter a final order, granting or denying the application for a writ of habeas corpus, not later than 15 months after the date on which the State files its answer or, if no timely answer is filed, the date on which such answer is due, or not later than 60 days after the case is submitted for decision, whichever is earlier.

''(E) If the district court fails to comply with the requirements of this paragraph, the State may petition the court of appeals for a writ of mandamus to enforce the requirements. The court of appeals shall grant or deny the petition for a writ of mandamus not later than 30 days after such petition is filed with the court.

''(5) TIME LIMITS IN COURT OF APPEALS.—For any application described under paragraph (3), in the court of appeals the following shall apply:

''(A) A timely filed notice of appeal from an order issuing a writ of habeas corpus shall operate as a stay of that order pending final disposition of the appeal.

''(B) The court of appeals shall decide the appeal from an order granting or denying a writ of habeas corpus—

''(i) not later than 120 days after the date on which the brief of the appellee is filed or, if no timely brief is filed, the date on which such brief is due; or

''(ii) if a cross-appeal is filed, not later than 120 days after the date on which the appellant files a brief in response to the issues presented by the cross-appeal or, if no timely brief is filed, the date on which such brief is due.

''(C)(i) Following a decision by a panel of the court of appeals under subparagraph (B), a petition for panel rehearing is not allowed, but rehearing by the court of appeals en banc may be requested. The court of appeals shall decide whether to grant a petition for rehearing en banc not later than 30 days after the date on which the petition is filed, unless a response is required, in which case the court shall decide whether to grant the petition not later than 30 days after the date on which the response is filed or, if no timely response is filed, the date on which the response is due.

''(ii) If rehearing en banc is granted, the court of appeals shall make a final determination of the appeal not later than 120 days after the date on which the order granting rehearing en banc is entered.

''(D) If the court of appeals fails to comply with the requirements of this paragraph, the State may petition the Supreme Court or a justice thereof for a writ of mandamus to enforce the requirements.

''(6) APPLICATION OF TIME LIMITS.—

''(A) IN GENERAL.—The time limitations under paragraphs (4) and (5) shall apply to an initial application described under paragraph (3), any second or successive application described under paragraph (3), and any redetermination of an application described under paragraph (3) or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings.

''(B) REMAND IN DISTRICT COURT.—In proceedings following remand in the district court, time limits running from the time the State files its answer under paragraph (4) shall run from the date the remand is ordered if further briefing is not required in the district court. If there is further briefing following remand in the district court, such time limits shall run from the date on which a responsive brief is filed or, if no timely responsive brief is filed, the date on which such brief is due.

''(C) REMAND IN COURT OF APPEALS.—In proceedings following remand in the court of appeals, the time limit specified in paragraph (5)(B) shall run from the date the remand is ordered if further briefing is not required in the court of appeals. If there is further briefing in the court of appeals, the time limit specified in paragraph (5)(B) shall run from the date on which a responsive brief is filed or, if no timely responsive brief is filed, from the date on which such brief is due.

''(7) FAILURE TO COMPLY.—The failure of a court to meet or comply with a time limitation under this subsection shall not be a ground for granting relief from a judgment of conviction or sentence, nor shall the time limitations under this subsection be construed to entitle a capital applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.''.

(d) APPLICATION TO PENDING CASES.—

(1) IN GENERAL.—The amendments made by this section shall apply to cases pending on or after the date of enactment of this Act.

(2) TIME LIMITS.—In a case pending on the date of enactment of this Act, if the amendments made by this section provide that a time limit runs from an event or time that has occurred prior to such date of enactment, the time limit shall run instead from such date of enactment.

SA 3939. Mr. HARKIN 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:

At the appropriate place in the bill, add:

It is the Sense of the Senate that the United States should support and uphold the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.

SA 3940. Mr. HATCH 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:

At the appropriate place, insert the following:

SEC. ___. PENALTIES FOR STOWAWAYS.

Section 2199 of title 18, United States Code, is amended by striking ''Shall be fined under this title or imprisoned not more than one year or both.'' and inserting the following:

''Shall be fined under this title or imprisoned not more than 5 years or both;

''If serious bodily injury occurs (as defined in section 1365 of this title, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242 of this title) to any person other than a participant as a result of a violation of this section, be fined under this title or imprisoned not more than 20 years, or both; and

''If death to any person other than a participant occurs as a result of a violation of this section, be fined under this title or imprisoned for any number of years up to life, or both.''.

SA 3941. Mr. GRAHAM of Florida 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:

28 U.S.C. §1605(A). A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case—

2. * * *

(7) not otherwise covered by paragraph (2), in which money damages are sought against a foreign state for personal injury or death, or damage to or loss of property, that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that the court shall decline to hear a claim under this paragraph—

(A) if the foreign state was not designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) at the time the act occurred, unless later so designated as a result of such act or the act is related to Case Number 1:00CV03110(EGS) in the United States District Court for the District of Columbia or to the September 11, 2001 terrorist attacks against the World Trade Center, the Pentagon and other targets in the United States; * * *

18 U.S.C. §2332f(e). As used in this section, the term—

(2) ''national of the United States'' (i) has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)) and (ii) means an organization which is incorporated or chartered or has its principal place of business in the United States;

SA 3942. Mr. LIEBERMAN (for Mr. MCCAIN (for himself, and Mr. LIEBERMAN, and Mr. BAYH,) 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 ____—THE ROLE OF DIPLOMACY, FOREIGN AID, AND THE MILITARY IN THE WAR ON TERRORISM

SEC. ___01. FINDINGS.

Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Long-term success in the war on terrorism demands the use of all elements of national power, including diplomacy, military action, intelligence, covert action, law enforcement, economic policy, foreign aid, public diplomacy, and homeland defense.

(2) To win the war on terrorism, the United States must assign to economic and diplomatic capabilities the same strategic priority that is assigned to military capabilities.

(3) The legislative and executive branches of the Government of the United States must commit to robust, long-term investments in all of the tools necessary for the foreign policy of the United States to successfully accomplish the goals of the United States.

(4) The investments referred to in paragraph (3) will require increased funding to United States foreign affairs programs in general, and to priority areas as described in this title in particular.

SEC. ___02. TERRORIST SANCTUARIES.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Complex terrorist operations require locations that provide such operations sanctuary from interference by government or law enforcement personnel.

(2) A terrorist sanctuary existed in Afghanistan before September 11, 2001.

(3) The terrorist sanctuary in Afghanistan provided direct and indirect value to members of al Qaeda who participated in the terrorist attacks on the United States on September 11, 2001, and in other terrorist operations.

(4) Terrorist organizations have fled to some of the least governed and most lawless places in the world to find sanctuary.

(5) During the 21st century, terrorists are focusing on remote regions and failing states as locations to seek sanctuary.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States Government should identify and prioritize locations that are or that could be used as terrorist sanctuaries;

(2) the United States Government should have a realistic strategy that includes the use of all elements of national power to keep possible terrorists from using a location as a sanctuary; and

(3) the United States Government should reach out, listen to, and work with countries in bilateral and multilateral fora to prevent locations from becoming sanctuaries and to prevent terrorists from using locations as sanctuaries.

SEC. ___03. ROLE OF PAKISTAN IN COUNTERING TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The Government of Pakistan has a critical role to perform in the struggle against Islamist terrorism.

(2) The endemic poverty, widespread corruption, and frequent ineffectiveness of government in Pakistan create opportunities for Islamist recruitment.

(3) The poor quality of education in Pakistan is particularly worrying, as millions of families send their children to madrassahs, some of which have been used as incubators for violent extremism.

(4) The vast unpoliced regions in Pakistan make the country attractive to extremists seeking refuge and recruits and also provide a base for operations against coalition forces in Afghanistan.

(5) A stable Pakistan, with a moderate, responsible government that serves as a voice of tolerance in the Muslim world, is critical to stability in the region.

(6) There is a widespread belief among the people of Pakistan that the United States has long treated them as allies of convenience.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should make a long-term commitment to fostering a stable and secure future in Pakistan, as long as its leaders remain committed to combatting extremists and extremism, ending the proliferation of weapons of mass destruction, securing its borders, and gaining internal control of all its territory while pursuing policies that strengthen civil society, promote moderation and advance socio-economic progress;

(2) Pakistan should make sincere efforts to transition to democracy, enhanced rule of law, and robust civil institutions, and United States policy toward Pakistan should promote such a transition;

(3) the United States assistance to Pakistan should be maintained at the overall levels requested by the President for fiscal year 2005;

(4) the United States should support the Government of Pakistan with a comprehensive effort that extends from military aid to support for better education;

(5) the United States Government should devote particular attention and resources to assisting in the improvement of the quality of education in Pakistan; and

(6) the Government of Pakistan should devote additional resources of such Government to expanding and improving modern public education in Pakistan.

SEC. ___04. AID TO AFGHANISTAN.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The United States and its allies in the international community have made progress in promoting economic and political reform within Afghanistan, including the establishment of a central government with a democratic constitution, a new currency, and a new army, the increase of personal freedom, and the elevation of the standard of living of many Afghans.

(2) A number of significant obstacles must be overcome if Afghanistan is to become a secure and prosperous democracy, and such a transition depends in particular upon—

(A) improving security throughout the country;

(B) disarming and demobilizing militias;

(C) curtailing the rule of the warlords;

(D) promoting equitable economic development;

(E) protecting the human rights of the people of Afghanistan;

(F) holding elections for public office; and

(G) ending the cultivation and trafficking of narcotics.

(3) The United States and the international community must make a long-term commitment to addressing the deteriorating security situation in Afghanistan and the burgeoning narcotics trade, endemic poverty, and other serious problems in Afghanistan in order to prevent that country from relapsing into a sanctuary for international terrorism.

(b) SENSE OF CONGRESS.—

(1) ACTIONS FOR AFGHANISTAN.—It is the sense of Congress that the Government of the United States should take, with respect to Afghanistan, the following actions:

(A) Working with other nations to obtain long-term security, political, and financial commitments and fulfillment of pledges to the Government of Afghanistan to accomplish the objectives of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.), especially to ensure a secure, democratic, and prosperous Afghanistan that respects the rights of its citizens and is free of international terrorist organizations.

(B) Using the voice and vote of the United States in relevant international organizations, including the North Atlantic Treaty Organization and the United Nations Security Council, to strengthen international commitments to assist the Government of Afghanistan in enhancing security, building national police and military forces, increasing counter-narcotics efforts, and expanding infrastructure and public services throughout the country.

(C) Taking appropriate steps to increase the assistance provided under programs of the Department of State and the United States Agency for International Development throughout Afghanistan and to increase the number of personnel of those agencies in Afghanistan as necessary to support the increased assistance.

(2) REVISION OF AFGHANISTAN FREEDOM SUPPORT ACT OF 2002.—It is the sense of Congress that Congress should, in consultation with the President, update and revise, as appropriate, the Afghanistan Freedom Support Act of 2002.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President for each of the fiscal years 2005 through 2009 such sums as may be necessary to provide assistance for Afghanistan, unless otherwise authorized by Congress, for the following purposes:

(A) For development assistance under sections 103, 105, and 106 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151a, 2151c, and 2151d).

(B) For children's health programs under the Child Survival and Health Program Fund under section 104 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b).

(C) For economic assistance under the Economic Support Fund under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.).

(D) For international narcotics and law enforcement under section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291).

(E) For nonproliferation, anti-terrorism, demining, and related programs.

(F) For international military education and training under section 541 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347).

(G) For Foreign Military Financing Program grants under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

(H) For peacekeeping operations under section 551 of the Foreign Assistance Act of 1961 (22 U.S.C. 2348).

(2) CONDITIONS FOR ASSISTANCE.—Assistance provided by the President under this subsection—

(A) shall be consistent with the Afghanistan Freedom Support Act of 2002; and

(B) shall be provided with reference to the ''Securing Afghanistan's Future'' document published by the Government of Afghanistan.

SEC. ___05. THE UNITED STATES-SAUDI ARABIA RELATIONSHIP.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Despite a long history of friendly relations with the United States, Saudi Arabia has been a problematic ally in combating Islamist extremism.

(2) Cooperation between the Governments of the United States and Saudi Arabia has traditionally been carried out in private.

(3) Counterterrorism cooperation between the Governments of the United States and Saudi Arabia has improved significantly since the terrorist bombing attacks in Riyadh, Saudi Arabia, on May 12, 2003, especially cooperation to combat terror groups operating inside Saudi Arabia.

(4) The Government of Saudi Arabia is now pursuing al Qaeda within Saudi Arabia and has begun to take some modest steps toward internal reform.

(5) Nonetheless, the Government of Saudi Arabia has been at times unresponsive to United States requests for assistance in the global war on Islamist terrorism.

(6) The Government of Saudi Arabia has not done all it can to prevent nationals of Saudi Arabia from funding and supporting extremist organizations in Saudi Arabia and other countries.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the problems in the relationship between the United States and Saudi Arabia must be confronted openly, and the opportunities for cooperation between the countries must be pursued openly by those governments;

(2) both governments must build a relationship that they can publicly defend and that is based on other national interests in addition to their national interests in oil;

(3) this relationship should include a shared commitment to political and economic reform in Saudi Arabia;

(4) this relationship should also include a shared interest in greater tolerance and respect for other cultures in Saudi Arabia and a commitment to fight the violent extremists who foment hatred in the Middle East; and

(5) the Government of Saudi Arabia must do all it can to prevent nationals of Saudi Arabia from funding and supporting extremist organizations in Saudi Arabia and other countries.

SEC. ___06. EFFORTS TO COMBAT ISLAMIST TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) While support for the United States has plummeted in the Islamic world, many negative views are uninformed, at best, and, at worst, are informed by coarse stereotypes and caricatures.

(2) Local newspapers in Islamic countries and influential broadcasters who reach Islamic audiences through satellite television often reinforce the idea that the people and Government of the United States are anti-Muslim.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Government of the United States should offer an example of moral leadership in the world that includes a commitment to treat all people humanely, abide by the rule of law, and be generous to the people and governments of other countries;

(2) the United States should cooperate with governments of Islamic countries to foster agreement on respect for human dignity and opportunity, and to offer a vision of a better future that includes stressing life over death, individual educational and economic opportunity, widespread political participation, contempt for indiscriminate violence, respect for the rule of law, openness in discussing differences, and tolerance for opposing points of view;

(3) the United States should encourage reform, freedom, democracy, and opportunity for Arabs and Muslims and promote moderation in the Islamic world; and

(4) the United States should work to defeat extremist ideology in the Islamic world by providing assistance to moderate Arabs and Muslims to combat extremist ideas.

SEC. ___07. UNITED STATES POLICY TOWARD DICTATORSHIPS.

(a) FINDING.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that short-term gains enjoyed by the United States through cooperation with repressive dictatorships have often been outweighed by long-term setbacks for the stature and interests of the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) United States foreign policy should promote the value of life and the importance of individual educational and economic opportunity, encourage widespread political participation, condemn indiscriminate violence, and promote respect for the rule of law, openness in discussing differences among people, and tolerance for opposing points of view; and

(2) the United States Government must prevail upon the governments of all predominantly Muslim countries, including those that are friends and allies of the United States, to condemn indiscriminate violence, promote the value of life, respect and promote the principles of individual education and economic opportunity, encourage widespread political participation, and promote the rule of law, openness in discussing differences among people, and tolerance for opposing points of view.

SEC. ___08. PROMOTION OF UNITED STATES VALUES THROUGH BROADCAST MEDIA.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Although the United States has demonstrated and promoted its values in defending Muslims against tyrants and criminals in Somalia, Bosnia, Kosovo, Afghanistan, and Iraq, this message is not always clearly presented and understood in the Islamic world.

(2) If the United States does not act to vigorously define its message in the Islamic world, the image of the United States will be defined by Islamic extremists who seek to demonize the United States.

(3) Recognizing that many Arab and Muslim audiences rely on satellite television and radio, the United States Government has launched promising initiatives in television and radio broadcasting to the Arab world, Iran, and Afghanistan.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States must do more to defend and promote its values and ideals to the broadest possible audience in the Islamic world;

(2) United States efforts to defend and promote these values and ideals are beginning to ensure that accurate expressions of these values reach large audiences in the Islamic world and should be robustly supported;

(3) the United States Government could and should do more to engage the Muslim world in the struggle of ideas; and

(4) the United States Government should more intensively employ existing broadcast media in the Islamic world as part of this engagement.

(c) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to the President for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out United States Government broadcasting activities under the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.), the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.), and the Foreign Affairs Reform and Restructuring Act of 1998 (22 U.S.C. 6501 et seq.), and to carry out other activities under this section consistent with the purposes of such Acts, unless otherwise authorized by Congress.

SEC. ___09. EXPANSION OF UNITED STATES SCHOLARSHIP AND EXCHANGE PROGRAMS IN THE ISLAMIC WORLD.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Exchange, scholarship, and library programs are effective ways for the United States Government to promote internationally the values and ideals of the United States.

(2) Exchange, scholarship, and library programs can expose young people from other countries to United States values and offer them knowledge and hope.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should expand its exchange, scholarship, and library programs, especially those that benefit people in the Arab and Muslim worlds.

(c) AUTHORITY TO EXPAND EDUCATIONAL AND CULTURAL EXCHANGES.—The President is authorized to substantially expand the exchange, scholarship, and library programs of the United States, especially such programs that benefit people in the Arab and Muslim worlds.

(d) AVAILABILITY OF FUNDS.—Of the amounts authorized to be appropriated for educational and cultural exchange programs in each of the fiscal years 2005 through 2009, there is authorized to be made available to the Secretary of State such sums as may be necessary to carry out programs under this section, unless otherwise authorized by Congress.

SEC. ___10. INTERNATIONAL YOUTH OPPORTUNITY FUND.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Education that teaches tolerance, the dignity and value of each individual, and respect for different beliefs is a key element in any global strategy to eliminate Islamist terrorism.

(2) Education in the Middle East about the world outside that region is weak.

(3) The United Nations has rightly equated literacy with freedom.

(4) The international community is moving toward setting a concrete goal of reducing by half the illiteracy rate in the Middle East by 2010, through the implementation of education programs targeting women and girls and programs for adult literacy, and by other means.

(5) To be effective, efforts to improve education in the Middle East must also include—

(A) support for the provision of basic education tools, such as textbooks that translate more of the world's knowledge into local languages and local libraries to house such materials; and

(B) more vocational education in trades and business skills.

(6) The Middle East can benefit from some of the same programs to bridge the digital

divide that already have been developed for other regions of the world.

(b) INTERNATIONAL YOUTH OPPORTUNITY FUND.—

(1) ESTABLISHMENT.—The President shall establish an International Youth Opportunity Fund to provide financial assistance for the improvement of public education in the Middle East.

(2) INTERNATIONAL PARTICIPATION.—The President shall seek the cooperation of the international community in establishing and generously supporting the Fund.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President for the establishment of the International Youth Opportunity Fund, in addition to any amounts otherwise available for such purpose, such sums as may be necessary for each of the fiscal years 2005 through 2009, unless otherwise authorized by Congress.

SEC. ___11. THE USE OF ECONOMIC POLICIES TO COMBAT TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) While terrorism is not caused by poverty, breeding grounds for terrorism are created by backward economic policies and repressive political regimes.

(2) Policies that support economic development and reform also have political implications, as economic and political liberties are often linked.

(3) The United States is working toward creating a Middle East Free Trade Area by 2013 and implementing a free trade agreement with Bahrain, and free trade agreements exist between the United States and Israel and the United States and Jordan.

(4) Existing and proposed free trade agreements between the United States and Islamic countries are drawing interest from other countries in the Middle East region, and Islamic countries can become full participants in the rules-based global trading system, as the United States considers lowering its barriers to trade with the poorest Arab countries.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) a comprehensive United States strategy to counter terrorism should include economic policies that encourage development, open societies, and opportunities for people to improve the lives of their families and to enhance prospects for their children's future;

(2) one element of such a strategy should encompass the lowering of trade barriers with the poorest countries that have a significant population of Arab or Muslim individuals;

(3) another element of such a strategy should encompass United States efforts to promote economic reform in countries that have a significant population of Arab or Muslim individuals, including efforts to integrate such countries into the global trading system; and

(4) given the importance of the rule of law in promoting economic development and attracting investment, the United States should devote an increased proportion of its assistance to countries in the Middle East to the promotion of the rule of law.

SEC. ___12. MIDDLE EAST PARTNERSHIP INITIATIVE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of the fiscal years 2005 through 2009 such sums as may be necessary for the Middle East Partnership Initiative, unless otherwise authorized by Congress.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, given the importance of the rule of law and economic reform to development in the Middle East, a significant portion of the funds authorized to be appropriated under subsection (a) should be made available to promote the rule of law in the Middle East.

SEC. ___13. COMPREHENSIVE COALITION STRATEGY FOR FIGHTING TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Almost every aspect of the counterterrorism strategy of the United States relies on international cooperation.

(2) Since September 11, 2001, the number and scope of United States Government contacts with foreign governments concerning counterterrorism have expanded significantly, but such contacts have often been ad hoc and not integrated as a comprehensive and unified approach.

(b) INTERNATIONAL CONTACT GROUP ON COUNTERTERRORISM.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that the President—

(A) should seek to engage the leaders of the governments of other countries in a process of advancing beyond separate and uncoordinated national counterterrorism strategies to develop with those other governments a comprehensive coalition strategy to fight Islamist terrorism; and

(B) to that end, should seek to establish an international counterterrorism policy contact group with the leaders of governments providing leadership in global counterterrorism efforts and governments of countries with sizable Muslim populations, to be used as a ready and flexible international means for discussing and coordinating the development of important counterterrorism policies by the participating governments.

(2) AUTHORITY.—The President is authorized to establish an international counterterrorism policy contact group with the leaders of governments referred to in paragraph (1) for purposes as follows:

(A) To develop in common with such other countries important policies and a strategy that address the various components of international prosecution of the war on terrorism, including policies and a strategy that address military issues, law enforcement, the collection, analysis, and dissemination of intelligence, issues relating to interdiction of travel by terrorists, counterterrorism-related customs issues, financial issues, and issues relating to terrorist sanctuaries.

(B) To address, to the extent (if any) that the President and leaders of other participating governments determine appropriate, such long-term issues as economic and political reforms that can contribute to strengthening stability and security in the Middle East.

SEC. ___14. TREATMENT OF FOREIGN PRISONERS.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Carrying out the global war on terrorism requires the development of policies with respect to the detention and treatment of captured international terrorists that are adhered to by all coalition forces.

(2) Article 3 of the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316) was specifically designed for cases in which the usual rules of war do not apply, and the minimum standards of treatment pursuant to such Article are generally accepted throughout the world as customary international law.

(b) POLICY.—The policy of the United States is as follows:

(1) It is the policy of the United States to treat all foreign persons captured, detained, interned or otherwise held in the custody of the United States (hereinafter ''prisoners'') humanely and in accordance with standards that the United States would consider legal if perpetrated by the enemy against an American prisoner.

(2) It is the policy of the United States that all officials of the United States are bound both in wartime and in peacetime by the legal prohibition against torture, cruel, inhuman or degrading treatment.

(3) If there is any doubt as to whether prisoners are entitled to the protections afforded by the Geneva Conventions, such prisoners shall enjoy the protections of the Geneva Conventions until such time as their status can be determined pursuant to the procedures authorized by Army Regulation 190–8, Section 1–6.

(4) It is the policy of the United States to expeditiously prosecute cases of terrorism or other criminal acts alleged to have been committed by prisoners in the custody of the United States Armed Forces at Guantanamo Bay, Cuba, in order to avoid the indefinite detention of prisoners, which is contrary to the legal principles and security interests of the United States.

(c) REPORTING.—The Department of Defense shall submit to the appropriate congressional committees:

(1) A quarterly report providing the number of prisoners who were denied Prisoner of War (POW) status under the Geneva Conventions and the basis for denying POW status to each such prisoner.

(2) A report setting forth—

(A) the proposed schedule for military commissions to be held at Guantanamo Bay, Cuba; and

(B) the number of individuals currently held at Guantanamo Bay, Cuba, the number of such individuals who are unlikely to face a military commission in the next six months, and each reason for not bringing such individuals before a military commission.

(3) All International Committee of the Red Cross reports, completed prior to the enactment of this Act, concerning the treatment of prisoners in United States custody at Guantanamo Bay, Cuba, Iraq, and Afghanistan. Such ICRC reports should be provided, in classified form, not later than 15 days after enactment of this Act.

(4) A report setting forth all prisoner interrogation techniques approved by officials of the United States.

(d) ANNUAL TRAINING REQUIREMENT.—The Department of Defense shall certify that all Federal employees and civilian contractors engaged in the handling or interrogating of prisoners have fulfilled an annual training requirement on the laws of war, the Geneva Conventions and the obligations of the United States under international humanitarian law.

(e) PROHIBITION ON TORTURE OR CRUEL, INHUMANE, OR DEGRADING TREATMENT OR PUNISHMENT.—

(1) IN GENERAL.—No prisoner shall be subject to torture or cruel, inhumane, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(2) RELATIONSHIP TO GENEVA CONVENTIONS.—Nothing in this section shall affect the status of any person under the Geneva Conventions or whether any person is entitled to the protections of the Geneva Conventions.

(f) RULES, REGULATIONS, AND GUIDELINES.—

(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act,

the Secretary and the Director shall prescribe the rules, regulations, or guidelines necessary to ensure compliance with the prohibition in subsection (e)(1) by all personnel of the United States Government and by any person providing services to the United States Government on a contract basis.

(2) REPORT TO CONGRESS.—The Secretary and the Director shall submit to Congress the rules, regulations, or guidelines prescribed under paragraph (1), and any modifications to such rules, regulations, or guidelines—

(A) not later than 30 days after the effective date of such rules, regulations, guidelines, or modifications; and

(B) in a manner and form that will protect the national security interests of the United States.

(g) REPORTS ON POSSIBLE VIOLATIONS.—

(1) REQUIREMENT.—The Secretary and the Director shall each submit, on a timely basis and not less than twice each year, a report to Congress on the circumstances surrounding any investigation of a possible violation of the prohibition in subsection (e)(1) by United States Government personnel or by a person providing services to the United States Government on a contract basis.

(2) FORM OF REPORT.—A report required under paragraph (1) shall be submitted in a manner and form that—

(A) will protect the national security interests of the United States; and

(B) will not prejudice any prosecution of an individual involved in, or responsible for, a violation of the prohibition in subsection (e)(1).

(h) REPORT ON A COALITION APPROACH TOWARD THE DETENTION AND HUMANE TREATMENT OF CAPTURED TERRORISTS.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report describing the efforts of the United States Government to develop an approach toward the detention and humane treatment of captured international terrorists that will be adhered to by all countries that are members of the coalition against terrorism.

(i) DEFINITIONS.—In this section:

(1) CRUEL, INHUMANE, OR DEGRADING TREATMENT OR PUNISHMENT.—The term ''cruel, inhumane, or degrading treatment or punishment'' means the cruel, unusual, and inhumane treatment or punishment prohibited by the fifth amendment, eighth amendment, or fourteenth amendment to the Constitution.

(2) DIRECTOR.—The term ''Director'' means the National Intelligence Director.

(3) GENEVA CONVENTIONS.—The term ''Geneva Conventions'' means—

(A) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3114);

(B) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(C) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(D) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Defense.

(5) TORTURE.—The term ''torture'' has the meaning given that term in section 2340 of title 18, United States Code.

SEC. ___15. PROLIFERATION OF WEAPONS OF MASS DESTRUCTION.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Al Qaeda and other terror groups have tried to acquire or make weapons of mass destruction since 1994 or earlier.

(2) The United States doubtless would be a prime target for use of any such weapon by al Qaeda.

(3) Although the United States Government has supported the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs, nonproliferation experts continue to express deep concern about the adequacy of such efforts to secure weapons of mass destruction and related materials that still exist in Russia other countries of the former Soviet Union, and around the world.

(4) The cost of increased investment in the prevention of proliferation of weapons of mass destruction and related materials is greatly outweighed by the potentially catastrophic cost to the United States of the use of such weapons by terrorists.

(5) The Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs are the United States primary method of preventing the proliferation of weapons of mass destruction and related materials from Russia and the states of the former Soviet Union, but require further expansion, improvement, and resources.

(6) Better coordination is needed within the executive branch of government for the budget development, oversight, and implementation of the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs, and critical elements of such programs are operated by the Departments of Defense, Energy, and State.

(7) The effective implementation of the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs in the countries of the former Soviet Union is hampered by Russian behavior and conditions on the provision of assistance under such programs that are unrelated to bilateral cooperation on weapons dismantlement.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) maximum effort to prevent the proliferation of weapons of mass destruction and related materials, wherever such proliferation may occur, is warranted;

(2) the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs should be expanded, improved, accelerated, and better funded to address the global dimensions of the proliferation threat; and

(3) the Proliferation Security Initiative is an important counterproliferation program that should be expanded to include additional partners.

(c) COOPERATIVE THREAT REDUCTION, GLOBAL THREAT REDUCTION INITIATIVE, AND OTHER NONPROLIFERATION ASSISTANCE PROGRAMS.—In this section, the term ''Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs'' includes—

(1) the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 50 U.S.C. 2362 note);

(2) the activities for which appropriations are authorized by section 3101(a)(2) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1742);

(3) the Department of State program of assistance to science centers;

(4) the Global Threat Reduction Initiative of the Department of Energy; and

(5) a program of any agency of the Federal Government having the purpose of assisting any foreign government in preventing nuclear weapons, plutonium, highly enriched uranium, or other materials capable of sustaining an explosive nuclear chain reaction, or nuclear weapons technology from becoming available to terrorist organizations.

(d) STRATEGY AND PLAN.—

(1) STRATEGY.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress—

(A) a comprehensive strategy for expanding and strengthening the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs; and

(B) an estimate of the funding necessary to execute such strategy.

(2) PLAN.—The strategy required by paragraph (1) shall include a plan for securing the nuclear weapons and related materials that are the most likely to be acquired or sought by, and susceptible to becoming available to, terrorist organizations, including—

(A) a prioritized list of the most dangerous and vulnerable sites;

(B) measurable milestones for improving United States nonproliferation assistance programs;

(C) a schedule for achieving such milestones; and

(D) initial estimates of the resources necessary to achieve such milestones under such schedule.

SEC. ___16. FINANCING OF TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) While efforts to designate and freeze the assets of terrorist financiers have been relatively unsuccessful, efforts to target the relatively small number of al Qaeda financial facilitators have been valuable and successful.

(2) The death or capture of several important financial facilitators has decreased the amount of money available to al Qaeda, and has made it more difficult for al Qaeda to raise and move money.

(3) The capture of al Qaeda financial facilitators has provided a windfall of intelligence that can be used to continue the cycle of disruption.

(4) The United States Government has rightly recognized that information about terrorist money helps in understanding terror networks, searching them out, and disrupting their operations.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) a critical weapon in the effort to stop terrorist financing should be the targeting of terrorist financial facilitators by intelligence and law enforcement agencies; and

(2) efforts to track terrorist financing must be paramount in United States counter-terrorism efforts.

(c) REPORT ON TERRORIST FINANCING.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report evaluating the effectiveness of United States efforts to curtail the international financing of terrorism.

(2) CONTENTS.—The report required by paragraph (1) shall evaluate and make recommendations on—

(A) the effectiveness of efforts and methods to the identification and tracking of terrorist financing;

(B) ways to improve multinational and international governmental cooperation in this effort;

(C) ways to improve the effectiveness of financial institutions in this effort;

(D) the adequacy of agency coordination, nationally and internationally, including

international treaties and compacts, in this effort and ways to improve that coordination; and

(E) recommendations for changes in law and additional resources required to improve this effort.

SEC. ___17. REPORT TO CONGRESS.

(a) REQUIREMENT FOR REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on the activities of the Government of the United States to carry out the provisions of this title.

(b) CONTENT.—The report required under this section shall include the following:

(1) TERRORIST SANCTUARIES.—A description of the strategy of the United States to address and, where possible, eliminate terrorist sanctuaries, including—

(A) a description of actual and potential terrorist sanctuaries, together with an assessment of the priorities of addressing and eliminating such sanctuaries;

(B) an outline of strategies for disrupting or eliminating the security provided to terrorists by such sanctuaries;

(C) a description of efforts by the United States Government to work with other countries in bilateral and multilateral fora to address or eliminate actual or potential terrorist sanctuaries and disrupt or eliminate the security provided to terrorists by such sanctuaries; and

(D) a description of long-term goals and actions designed to reduce the conditions that allow the formation of terrorist sanctuaries, such as supporting and strengthening host governments, reducing poverty, increasing economic development, strengthening civil society, securing borders, strengthening internal security forces, and disrupting logistics and communications networks of terrorist groups.

(2) SUPPORT FOR PAKISTAN.—A description of the efforts of the United States Government to support Pakistan and encourage moderation in that country, including—

(A) an examination of the desirability of establishing a Pakistan Education Fund to direct resources toward improving the quality of secondary schools in Pakistan, and an examination of the efforts of the Government of Pakistan to fund modern public education;

(B) recommendations on the funding necessary to provide various levels of educational support;

(C) an examination of the current composition and levels of United States military aid to Pakistan, together with any recommendations for changes in such levels and composition that the President considers appropriate; and

(D) an examination of other major types of United States financial support to Pakistan, together with any recommendations for changes in the levels and composition of such support that the President considers appropriate.

(3) SUPPORT FOR AFGHANISTAN.—

(A) SPECIFIC OBJECTIVES.—A description of the strategy of the United States to provide aid to Afghanistan during the 5-year period beginning on the date of enactment of this Act, including a description of the resources necessary during the next 5 years to achieve specific objectives in Afghanistan in the following areas:

(i) Fostering economic development.

(ii) Curtailing the cultivation of opium.

(iii) Achieving internal security and stability.

(iv) Eliminating terrorist sanctuaries.

(v) Increasing governmental capabilities.

(vi) Improving essential infrastructure and public services.

(vii) Improving public health services.

(viii) Establishing a broad-based educational system.

(ix) Promoting democracy and the rule of law.

(x) Building national police and military forces.

(B) PROGRESS.—A description of—

(i) the progress made toward achieving the objectives described in clauses (i) through (x) of subparagraph (A); and

(ii) any shortfalls in meeting such objectives and the resources needed to fully achieve such objectives.

(4) COLLABORATION WITH SAUDI ARABIA.—A description of the strategy of the United States for expanding collaboration with the Government of Saudi Arabia on subjects of mutual interest and of importance to the United States, including a description of—

(A) the utility of the President undertaking a periodic, formal, and visible high-level dialogue between senior United States Government officials of cabinet level or higher rank and their counterparts in the Government of Saudi Arabia to address challenges in the relationship between the two governments and to identify areas and mechanisms for cooperation;

(B) intelligence and security cooperation between the United States and Saudi Arabia in the fight against Islamist terrorism;

(C) ways to advance Saudi Arabia's contribution to the Middle East peace process;

(D) political and economic reform in Saudi Arabia and throughout the Middle East;

(E) ways to promote greater tolerance and respect for cultural and religious diversity in Saudi Arabia and throughout the Middle East; and

(F) ways to assist the Government of Saudi Arabia in preventing nationals of Saudi Arabia from funding and supporting extremist groups in Saudi Arabia and other countries.

(5) STRUGGLE OF IDEAS IN THE ISLAMIC WORLD.—A description of a cohesive, long-term strategy of the United States to help win the struggle of ideas in the Islamic world, including the following:

(A) A description of specific goals related to winning this struggle of ideas.

(B) A description of the range of tools available to the United States Government to accomplish such goals and the manner in which such tools will be employed.

(C) A list of benchmarks for measuring success and a plan for linking resources to the accomplishment of such goals.

(D) A description of any additional resources that may be necessary to help win this struggle of ideas.

(E) Any recommendations for the creation of, and United States participation in, international institutions for the promotion of democracy and economic diversification in the Islamic world, and intraregional trade in the Middle East.

(F) An estimate of the level of United States financial assistance that would be sufficient to convince United States allies and people in the Islamic world that engaging in the struggle of ideas in the Islamic world is a top priority of the United States and that the United States intends to make a substantial and sustained commitment toward winning this struggle.

(6) OUTREACH THROUGH BROADCAST MEDIA.—A description of a cohesive, long-term strategy of the United States to expand its outreach to foreign Muslim audiences through broadcast media, including the following:

(A) The initiatives of the Broadcasting Board of Governors with respect to outreach to foreign Muslim audiences.

(B) An outline of recommended actions that the United States Government should take to more regularly and comprehensively present a United States point of view through indigenous broadcast media in countries with sizable Muslim populations, including increasing appearances by United States Government officials, experts, and citizens.

(C) An assessment of potential incentives for, and costs associated with, encouraging United States broadcasters to dub or subtitle into Arabic and other relevant languages their news and public affairs programs broadcast in the Muslim world in order to present those programs to a much broader Muslim audience than is currently reached.

(D) Any recommendations the President may have for additional funding and legislation necessary to achieve the objectives of the strategy.

(7) VISAS FOR PARTICIPANTS IN UNITED STATES PROGRAMS.—A description of—

(A) any recommendations for expediting the issuance of visas to individuals who are entering the United States for the purpose of participating in a scholarship, exchange, or visitor program described in subsection (c) of section ___09 without compromising the security of the United States; and

(B) a proposed schedule for implementing any recommendations described in subparagraph (A).

(8) BASIC EDUCATION IN MUSLIM COUNTRIES.—A description of a strategy, that was developed after consultation with nongovernmental organizations and individuals involved in education assistance programs in developing countries, to promote free universal basic education in the countries of the Middle East and in other countries with significant Muslim populations designated by the President. The strategy shall include the following elements:

(A) A description of the manner in which the resources of the United States and the international community shall be used to help achieve free universal basic education in such countries, including—

(i) efforts of the United states to coordinate an international effort;

(ii) activities of the United States to leverage contributions from members of the Group of Eight or other donors; and

(iii) assistance provided by the United States to leverage contributions from the private sector and civil society organizations.

(B) A description of the efforts of the United States to coordinate with other donors to reduce duplication and waste at the global and country levels and to ensure efficient coordination among all relevant departments and agencies of the Government of the United States.

(C) A description of the strategy of the United States to assist efforts to overcome challenges to achieving free universal basic education in such countries, including strategies to target hard to reach populations to promote education.

(D) A listing of countries that the President determines are eligible for assistance under the International Youth Opportunity Fund described in section ___10 and related programs.

(E) A description of the efforts of the United States to encourage countries in the Middle East and other countries with significant Muslim populations designated by the President to develop and implement a national education plan.

(F) A description of activities carried out as part of the International Youth Opportunity Fund to help close the digital divide and expand vocational and business skills in such countries.

(G) An estimate of the funds needed to achieve free universal basic education by 2015 in each country described in subparagraph (D), and an estimate of the amount that has been expended by the United States

and by each such country during the previous fiscal year.

(H) A description of the United States strategy for garnering programmatic and financial support from countries in the Middle East and other countries with significant Muslim populations designated by the President, international organizations, and other countries that share the objectives of the International Youth and Opportunity Fund.

(9) ECONOMIC REFORM.—A description of the efforts of the United States Government to encourage development and promote economic reform in countries that have a significant population of Arab or Muslim individuals, including a description of—

(A) efforts to integrate countries with significant populations of Arab or Muslim individuals into the global trading system; and

(B) actions that the United States Government, acting alone and in partnership with governments in the Middle East, can take to promote intraregional trade and the rule of law in the region.

SEC. ___18. EFFECTIVE DATE.

Notwithstanding section 341 or any other provision of this Act, this title shall take effect on the date of the enactment of this Act.

SA 3943. Mr. INOFE (for Mr. GREGG (for himself, Mr. HARKIN, Mr. KENNEDY, Mr. ENZI, Mr. REED, Mr. DEWINE, Mrs. CLINTON, MR. ROBERTS, Mr. BINGAMAN, Mrs. MURRAY, Mr. DASCHLE, and Mr. DODD)) submitted an amendment intended to be proposed by Mr. INHOFE to the bill H.R. 4278, to amend the Assistive Technology Act of 1998 to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Assistive Technology Act of 2004''.

SEC. 2. AMENDMENT TO THE ASSISTIVE TECHNOLOGY ACT OF 1998.

The Assistive Technology Act of 1998 (29 U.S.C. 3001 et seq.) is amended to read as follows:

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

''(a) SHORT TITLE.—This Act may be cited as the 'Assistive Technology Act of 1998'.

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

''Sec. 1. Short title; table of contents.
''Sec. 2. Findings and purposes.
''Sec. 3. Definitions.
''Sec. 4. State grants for assistive technology.
''Sec. 5. State grants for protection and advocacy services related to assistive technology.
''Sec. 6. National activities.
''Sec. 7. Administrative provisions.
''Sec. 8. Authorization of appropriations.

''SEC. 2. FINDINGS AND PURPOSES.

''(a) FINDINGS.—Congress finds the following:

''(1) Over 54,000,000 individuals in the United States have disabilities, with almost half experiencing severe disabilities that affect their ability to see, hear, communicate, reason, walk, or perform other basic life functions.

''(2) Disability is a natural part of the human experience and in no way diminishes the right of individuals to—

''(A) live independently;

''(B) enjoy self-determination and make choices;

''(C) benefit from an education;

''(D) pursue meaningful careers; and

''(E) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of society in the United States.

''(3) Technology is one of the primary engines for economic activity, education, and innovation in the Nation, and throughout the world. The commitment of the United States to the development and utilization of technology is one of the main factors underlying the strength and vibrancy of the economy of the United States.

''(4) As technology has come to play an increasingly important role in the lives of all persons in the United States, in the conduct of business, in the functioning of government, in the fostering of communication, in the conduct of commerce, and in the provision of education, its impact upon the lives of individuals with disabilities in the United States has been comparable to its impact upon the remainder of the citizens of the United States. Any development in mainstream technology will have profound implications for individuals with disabilities in the United States.

''(5) Substantial progress has been made in the development of assistive technology devices, including adaptations to existing devices that facilitate activities of daily living that significantly benefit individuals with disabilities of all ages. These devices, including adaptations, increase involvement in, and reduce expenditures associated with, programs and activities that facilitate communication, ensure independent functioning, enable early childhood development, support educational achievement, provide and enhance employment options, and enable full participation in community living for individuals with disabilities. Access to such devices can also reduce expenditures associated with early childhood intervention, education, rehabilitation and training, health care, employment, residential living, independent living, recreation opportunities, and other aspects of daily living.

''(6) Over the last 15 years, the Federal Government has invested in the development of comprehensive statewide programs of technology-related assistance, which have proven effective in assisting individuals with disabilities in accessing assistive technology devices and assistive technology services. This partnership between the Federal Government and the States provided an important service to individuals with disabilities by strengthening the capacity of each State to assist individuals with disabilities of all ages meet their assistive technology needs.

''(7) Despite the success of the Federal-State partnership in providing access to assistive technology devices and assistive technology services, there is a continued need to provide information about the availability of assistive technology, advances in improving accessibility and functionality of assistive technology, and appropriate methods to secure and utilize assistive technology in order to maximize the independence and participation of individuals with disabilities in society.

''(8) The combination of significant recent changes in Federal policy (including changes to section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), accessibility provisions of the Help America Vote Act of 2002 (42 U.S.C. 15301 et seq.), and the amendments made to the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) by the No Child Left Behind Act of 2001) and the rapid and unending evolution of technology require a Federal-State investment in State assistive technology systems to continue to ensure that individuals with disabilities reap the benefits of the technological revolution and participate fully in life in their communities.

''(b) PURPOSES.—The purposes of this Act are—

''(1) to support State efforts to improve the provision of assistive technology to individuals with disabilities through comprehensive statewide programs of technology-related assistance, for individuals with disabilities of all ages, that are designed to—

''(A) increase the availability of, funding for, access to, provision of, and training about assistive technology devices and assistive technology services;

''(B) increase the ability of individuals with disabilities of all ages to secure and maintain possession of assistive technology devices as such individuals make the transition between services offered by educational or human service agencies or between settings of daily living (for example, between home and work);

''(C) increase the capacity of public agencies and private entities to provide and pay for assistive technology devices and assistive technology services on a statewide basis for individuals with disabilities of all ages;

''(D) increase the involvement of individuals with disabilities and, if appropriate, their family members, guardians, advocates, and authorized representatives, in decisions related to the provision of assistive technology devices and assistive technology services;

''(E) increase and promote coordination among State agencies, between State and local agencies, among local agencies, and between State and local agencies and private entities (such as managed care providers), that are involved or are eligible to be involved in carrying out activities under this Act;

''(F) increase the awareness and facilitate the change of laws, regulations, policies, practices, procedures, and organizational structures, that facilitate the availability or provision of assistive technology devices and assistive technology services; and

''(G) increase awareness and knowledge of the benefits of assistive technology devices and assistive technology services among targeted individuals and entities and the general population; and

''(2) to provide States with financial assistance that supports programs designed to maximize the ability of individuals with disabilities and their family members, guardians, advocates, and authorized representatives to obtain assistive technology devices and assistive technology services.

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) ADULT SERVICE PROGRAM.—The term 'adult service program' means a program that provides services to, or is otherwise substantially involved with the major life functions of, individuals with disabilities. Such term includes—

''(A) a program providing residential, supportive, or employment services, or employment-related services, to individuals with disabilities;

''(B) a program carried out by a center for independent living, such as a center described in part C of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.);

''(C) a program carried out by an employment support agency connected to adult vocational rehabilitation, such as a one-stop partner, as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801); and

''(D) a program carried out by another organization or vender licensed or registered by the designated State agency, as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705).

''(2) AMERICAN INDIAN CONSORTIUM.—The term 'American Indian consortium' means an entity that is an American Indian Consortium (as defined in section 102 of Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002)), and that is established to provide protection and advocacy services for purposes of receiving funding under subtitle C of title I of such Act (42 U.S.C. 15041 et seq.).

''(3) ASSISTIVE TECHNOLOGY.—The term 'assistive technology' means technology designed to be utilized in an assistive technology device or assistive technology service.

''(4) ASSISTIVE TECHNOLOGY DEVICE.—The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

''(5) ASSISTIVE TECHNOLOGY SERVICE.—The term 'assistive technology service' means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

''(A) the evaluation of the assistive technology needs of an individual with a disability, including a functional evaluation of the impact of the provision of appropriate assistive technology and appropriate services to the individual in the customary environment of the individual;

''(B) a service consisting of purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

''(C) a service consisting of selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, replacing, or donating assistive technology devices;

''(D) coordination and use of necessary therapies, interventions, or services with assistive technology devices, such as therapies, interventions, or services associated with education and rehabilitation plans and programs;

''(E) training or technical assistance for an individual with a disability or, where appropriate, the family members, guardians, advocates, or authorized representatives of such an individual;

''(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services and entities that manufacture or sell assistive technology devices), employers, providers of employment and training services, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities; and

''(G) a service consisting of expanding the availability of access to technology, including electronic and information technology, to individuals with disabilities.

''(6) CAPACITY BUILDING AND ADVOCACY ACTIVITIES.—The term 'capacity building and advocacy activities' means efforts that—

''(A) result in laws, regulations, policies, practices, procedures, or organizational structures that promote consumer-responsive programs or entities; and

''(B) facilitate and increase access to, provision of, and funding for, assistive technology devices and assistive technology services, in order to empower individuals with disabilities to achieve greater independence, productivity, and integration and inclusion within the community and the workforce.

''(7) COMPREHENSIVE STATEWIDE PROGRAM OF TECHNOLOGY-RELATED ASSISTANCE.—The term 'comprehensive statewide program of technology-related assistance' means a consumer-responsive program of technology-related assistance for individuals with disabilities, implemented by a State, and equally available to all individuals with disabilities residing in the State, regardless of their type of disability, age, income level, or location of residence in the State, or the type of assistive technology device or assistive technology service required.

''(8) CONSUMER-RESPONSIVE.—The term 'consumer-responsive'—

''(A) with regard to policies, means that the policies are consistent with the principles of—

''(i) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

''(ii) respect for the privacy, rights, and equal access (including the use of accessible formats) of such individuals;

''(iii) inclusion, integration, and full participation of such individuals in society;

''(iv) support for the involvement in decisions of a family member, a guardian, an advocate, or an authorized representative, if an individual with a disability requests, desires, or needs such involvement; and

''(v) support for individual and systems advocacy and community involvement; and

''(B) with respect to an entity, program, or activity, means that the entity, program, or activity—

''(i) is easily accessible to, and usable by, individuals with disabilities and, when appropriate, their family members, guardians, advocates, or authorized representatives;

''(ii) responds to the needs of individuals with disabilities in a timely and appropriate manner; and

''(iii) facilitates the full and meaningful participation of individuals with disabilities (including individuals from underrepresented populations and rural populations) and their family members, guardians, advocates, and authorized representatives, in—

''(I) decisions relating to the provision of assistive technology devices and assistive technology services to such individuals; and

''(II) decisions related to the maintenance, improvement, and evaluation of the comprehensive statewide program of technology-related assistance, including decisions that affect capacity building and advocacy activities.

''(9) DISABILITY.—The term 'disability' means a condition of an individual that is considered to be a disability or handicap for the purposes of any Federal law other than this Act or for the purposes of the law of the State in which the individual resides.

''(10) INDIVIDUAL WITH A DISABILITY; INDIVIDUALS WITH DISABILITIES.—

''(A) INDIVIDUAL WITH A DISABILITY.—The term 'individual with a disability' means any individual of any age, race, or ethnicity—

''(i) who has a disability; and

''(ii) who is or would be enabled by an assistive technology device or an assistive technology service to minimize deterioration in functioning, to maintain a level of functioning, or to achieve a greater level of functioning in any major life activity.

''(B) INDIVIDUALS WITH DISABILITIES.—The term 'individuals with disabilities' means more than 1 individual with a disability.

''(11) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), and includes a community college receiving funding under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.).

''(12) PROTECTION AND ADVOCACY SERVICES.—The term 'protection and advocacy services' means services that—

''(A) are described in subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.), the Protection and Advocacy for Individuals with Mental Illness Act (42 U.S.C. 10801 et seq.), or section 509 of the Rehabilitation Act of 1973 (29 U.S.C. 794e); and

''(B) assist individuals with disabilities with respect to assistive technology devices and assistive technology services.

''(13) SECRETARY.—The term 'Secretary' means the Secretary of Education.

''(14) STATE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'State' means each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(B) OUTLYING AREAS.—In section 4(b):

''(i) OUTLYING AREA.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(ii) STATE.—The term 'State' does not include the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(15) STATE ASSISTIVE TECHNOLOGY PROGRAM.—The term 'State assistive technology program' means a program authorized under section 4.

''(16) TARGETED INDIVIDUALS AND ENTITIES.—The term 'targeted individuals and entities' means—

''(A) individuals with disabilities of all ages and their family members, guardians, advocates, and authorized representatives;

''(B) underrepresented populations, including the aging workforce;

''(C) individuals who work for public or private entities (including centers for independent living described in part C of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.), insurers, or managed care providers) that have contact, or provide services to, with individuals with disabilities;

''(D) educators at all levels (including providers of early intervention services, elementary schools, secondary schools, community colleges, and vocational and other institutions of higher education) and related services personnel;

''(E) technology experts (including web designers and procurement officials);

''(F) health, allied health, and rehabilitation professionals and hospital employees (including discharge planners);

''(G) employers, especially small business employers, and providers of employment and training services;

''(H) entities that manufacture or sell assistive technology devices;

''(I) entities that carry out community programs designed to develop essential community services in rural and urban areas; and

''(J) other appropriate individuals and entities, as determined for a State by the State.

''(17) TECHNOLOGY-RELATED ASSISTANCE.—The term 'technology-related assistance' means assistance provided through capacity building and advocacy activities that accomplish the purposes described in section 2(b).

''(18) UNDERREPRESENTED POPULATION.—The term 'underrepresented population' means a population that is typically underrepresented in service provision, and includes populations such as persons who have low-incidence disabilities, persons who are minorities, poor persons, persons with limited English proficiency, older individuals, or persons from rural areas.

''(19) UNIVERSAL DESIGN.—The term 'universal design' means a concept or philosophy for designing and delivering products and services that are usable by people with the

widest possible range of functional capabilities, which include products and services that are directly accessible (without requiring assistive technologies) and products and services that are interoperable with assistive technologies.

"SEC. 4. STATE GRANTS FOR ASSISTIVE TECHNOLOGY.

''(a) GRANTS TO STATES.—The Secretary shall award grants under subsection (b) to States to maintain comprehensive statewide programs of technology-related assistance to support programs that are designed to maximize the ability of individuals with disabilities across the human lifespan and across the wide array of disabilities, and their family members, guardians, advocates, and authorized representatives, to obtain assistive technology, and that are designed to increase access to assistive technology.

''(b) AMOUNT OF FINANCIAL ASSISTANCE.—

''(1) IN GENERAL.—From funds made available to carry out this section, the Secretary shall award a grant to each eligible State and eligible outlying area from an allotment determined in accordance with paragraph (2).

''(2) CALCULATION OF STATE GRANTS.—

''(A) BASE YEAR.—Except as provided in subparagraphs (B) and (C), the Secretary shall allot to each State and outlying area for a fiscal year an amount that is not less than the amount the State or outlying area received under the grants provided under section 101 of this Act (as in effect on the day before the date of enactment of the Assistive Technology Act of 2004) for fiscal year 2004.

''(B) RATABLE REDUCTION.—

''(i) IN GENERAL.—If funds made available to carry out this section for any fiscal year are insufficient to make the allotments required for each State and outlying area under subparagraph (A) for such fiscal year, the Secretary shall ratably reduce the allotments for such fiscal year.

''(ii) ADDITIONAL FUNDS.—If, after the Secretary makes the reductions described in clause (i), additional funds become available to carry out this section for the fiscal year, the Secretary shall ratably increase the allotments, until the Secretary has allotted the entire base year amount.

''(C) HIGHER APPROPRIATION YEARS.—Except as provided in subparagraph (D), for a fiscal year for which the amount of funds made available to carry out this section is greater than the base year amount, the Secretary shall—

''(i) make the allotments described in subparagraph (A);

''(ii) from a portion of the remainder of the funds after the Secretary makes the allotments described in clause (i), the Secretary shall—

''(I) from 50 percent of the portion, allot to each State or outlying area an equal amount; and

''(II) from 50 percent of the portion, allot to each State or outlying area an amount that bears the same relationship to such 50 percent as the population of the State or outlying area bears to the population of all States and outlying areas,

until each State has received an allotment of not less than $410,000 and each outlying area has received an allotment of $125,000 under clause (i) and this clause;

''(iii) from the remainder of the funds after the Secretary makes the allotments described in clause (ii), the Secretary shall—

''(I) from 80 percent of the remainder allot to each State an amount that bears the same relationship to such 80 percent as the population of the State bears to the population of all States; and

''(II) from 20 percent of the remainder, allot to each State an equal amount.

''(D) SPECIAL RULE FOR FISCAL YEAR 2005.—Notwithstanding subparagraph (C), if the amount of funds made available to carry out this section for fiscal year 2005 is greater than the base year amount, the Secretary may award grants on a competitive basis for periods of 1 year to States or outlying areas in accordance with the requirements of title III of this Act (as in effect on the day before the date of enactment of the Assistive Technology Act of 2004) to develop, support, expand, or administer an alternative financing program.

''(E) BASE YEAR AMOUNT.—In this paragraph, the term 'base year amount' means the total amount received by all States and outlying areas under the grants described in subparagraph (A) for fiscal year 2004.

''(c) LEAD AGENCY, IMPLEMENTING ENTITY, AND ADVISORY COUNCIL.—

''(1) LEAD AGENCY AND IMPLEMENTING ENTITY.—

''(A) LEAD AGENCY.—

''(i) IN GENERAL.—The Governor of a State shall designate a public agency as a lead agency—

''(I) to control and administer the funds made available through the grant awarded to the State under this section; and

''(II) to submit the application described in subsection (d) on behalf of the State, to ensure conformance with Federal and State accounting requirements.

''(ii) DUTIES.—The duties of the lead agency shall include—

''(I) preparing the application described in subsection (d) and carrying out State activities described in that application, including making programmatic and resource allocation decisions necessary to implement the comprehensive statewide program of technology-related assistance;

''(II) coordinating the activities of the comprehensive statewide program of technology-related assistance among public and private entities, including coordinating efforts related to entering into interagency agreements, and maintaining and evaluating the program; and

''(III) coordinating efforts related to the active, timely, and meaningful participation by individuals with disabilities and their family members, guardians, advocates, or authorized representatives, and other appropriate individuals, with respect to activities carried out through the grant.

''(B) IMPLEMENTING ENTITY.—The Governor may designate an agency, office, or other entity to carry out State activities under this section (referred to in this section as the 'implementing entity'), if such implementing entity is different from the lead agency. The implementing agency shall carry out responsibilities under this Act through a subcontract or another administrative agreement with the lead agency.

''(C) CHANGE IN AGENCY OR ENTITY.—

''(i) IN GENERAL.—On obtaining the approval of the Secretary, the Governor may redesignate the lead agency, or the implementing entity, if the Governor shows to the Secretary good cause why the entity designated as the lead agency, or the implementing entity, respectively, should not serve as that agency or entity, respectively. The Governor shall make the showing in the application described in subsection (d).

''(ii) CONSTRUCTION.—Nothing in this paragraph shall be construed to require the Governor of a State to change the lead agency or implementing entity of the State to an agency other than the lead agency or implementing entity of such State as of the date of enactment of the Assistive Technology Act of 2004.

''(2) ADVISORY COUNCIL.—

''(A) IN GENERAL.—There shall be established an advisory council to provide consumer-responsive, consumer-driven advice to the State for, planning of, implementation of, and evaluation of the activities carried out through the grant, including setting the measurable goals described in subsection (d)(3).

''(B) COMPOSITION AND REPRESENTATION.—

''(i) COMPOSITION.—The advisory council shall be composed of—

''(I) individuals with disabilities that use assistive technology or the family members or guardians of the individuals;

''(II) a representative of the designated State agency, as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705) and the State agency for individuals who are blind (within the meaning of section 101 of that Act (29 U.S.C. 721)), if such agency is separate;

''(III) a representative of a State center for independent living described in part C of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.);

''(IV) a representative of the State workforce investment board established under section 111 of the Workforce Investment Act of 1998 (29 U.S.C. 2821);

''(V) a representative of the State educational agency, as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801); and

''(VI) representatives of other State agencies, public agencies, or private organizations, as determined by the State.

''(ii) MAJORITY.—

''(I) IN GENERAL.—A majority, not less than 51 percent, of the members of the advisory council, shall be members appointed under clause (i)(I).

''(II) REPRESENTATIVES OF AGENCIES.—Members appointed under subclauses (II) through (VI) of clause (i) shall not count toward the majority membership requirement established in subclause (I).

''(iii) REPRESENTATION.—The advisory council shall be geographically representative of the State and reflect the diversity of the State with respect to race, ethnicity, types of disabilities across the age span, and users of types of services that an individual with a disability may receive.

''(C) EXPENSES.—The members of the advisory council shall receive no compensation for their service on the advisory council, but shall be reimbursed for reasonable and necessary expenses actually incurred in the performance of official duties for the advisory council.

''(D) PERIOD.—The members of the State advisory council shall be appointed not later than 120 days after the date of enactment of the Assistive Technology Act of 2004.

''(E) IMPACT ON EXISTING STATUTES, RULES, OR POLICIES.—Nothing in this paragraph shall be construed to affect State statutes, rules, or official policies relating to advisory bodies for State assistive technology programs or require changes to governing bodies of incorporated agencies who carry out State assistive technology programs.

''(d) APPLICATION.—

''(1) IN GENERAL.—Any State that desires to receive a grant under this section shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require.

''(2) LEAD AGENCY AND IMPLEMENTING ENTITY.—The application shall contain information identifying and describing the lead agency referred to in subsection (c)(1)(A). The application shall contain information identifying and describing the implementing entity referred to in subsection (c)(1)(B), if the Governor of the State designates such an entity.

''(3) MEASURABLE GOALS.—The application shall include—

''(A) measurable goals, and a timeline for meeting the goals, that the State has set for addressing the assistive technology needs of individuals with disabilities in the State related to—

''(i) education, including goals involving the provision of assistive technology to individuals with disabilities who receive services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

''(ii) employment, including goals involving the State vocational rehabilitation program carried out under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.);

''(iii) telecommunication and information technology; and

''(iv) community living; and

''(B) information describing how the State will quantifiably measure the goals to determine whether the goals have been achieved.

''(4) INVOLVEMENT OF PUBLIC AND PRIVATE ENTITIES.—The application shall describe how various public and private entities were involved in the development of the application and will be involved in the implementation of the activities to be carried out through the grant, including—

''(A) in cases determined to be appropriate by the State, a description of the nature and extent of resources that will be committed by public and private collaborators to assist in accomplishing identified goals; and

''(B) a description of the mechanisms established to ensure coordination of activities and collaboration between the implementing entity, if any, and the State.

''(5) IMPLEMENTATION.—The application shall include a description of—

''(A) how the State will implement each of the required activities described in subsection (e), except as provided in subsection (e)(6)(A); and

''(B) how the State will allocate and utilize grant funds to implement the activities, including describing proposed budget allocations and planned procedures for tracking expenditures for activities described in paragraphs (2) and (3) of subsection (e).

''(6) ASSURANCES.—The application shall include assurances that—

''(A) the State will annually collect data related to the required activities implemented by the State under this section in order to prepare the progress reports required under subsection (f);

''(B) funds received through the grant—

''(i) will be expended in accordance with this section; and

''(ii) will be used to supplement, and not supplant, funds available from other sources for technology-related assistance, including the provision of assistive technology devices and assistive technology services;

''(C) the lead agency will control and administer the funds received through the grant;

''(D) the State will adopt such fiscal control and accounting procedures as may be necessary to ensure proper disbursement of and accounting for the funds received through the grant;

''(E) the physical facility of the lead agency and implementing entity, if any, meets the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) regarding accessibility for individuals with disabilities;

''(F) a public agency or an individual with a disability holds title to any property purchased with funds received under the grant and administers that property;

''(G) activities carried out in the State that are authorized under this Act, and supported by Federal funds received under this Act, will comply with the standards established by the Architectural and Transportation Barriers Compliance Board under section 508 of the Rehabilitation Act of 1973 (20 U.S.C. 794d); and

''(H) the State will—

''(i) prepare reports to the Secretary in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this Act; and

''(ii) keep such records and allow access to such records as the Secretary may require to ensure the correctness and verification of information provided to the Secretary under this subparagraph.

''(7) STATE SUPPORT.—The application shall include a description of the activities described in paragraphs (2) and (3) of subsection (e) that the State will support with State funds.

''(e) USE OF FUNDS.—

''(1) IN GENERAL.—

''(A) REQUIRED ACTIVITIES.—Except as provided in subparagraph (B) and paragraph (6), any State that receives a grant under this section shall use a portion of the funds made available through the grant to carry out activities described in paragraphs (2) and (3).

''(B) STATE OR NON-FEDERAL FINANCIAL SUPPORT.—A State shall not be required to use a portion of the funds made available through the grant to carry out the category of activities described in subparagraph (A), (B), (C), or (D) of paragraph (2) if, in that State—

''(i) financial support is provided from State or other non-Federal resources or entities for that category of activities; and

''(ii) the amount of the financial support is comparable to, or greater than, the amount of the portion of the funds made available through the grant that the State would have expended for that category of activities, in the absence of this subparagraph.

''(2) STATE-LEVEL ACTIVITIES.—

''(A) STATE FINANCING ACTIVITIES.—The State shall support State financing activities to increase access to, and funding for, assistive technology devices and assistive technology services (which shall not include direct payment for such a device or service for an individual with a disability but may include support and administration of a program to provide such payment), including development of systems to provide and pay for such devices and services, for targeted individuals and entities described in section 3(16)(A), including—

''(i) support for the development of systems for the purchase, lease, or other acquisition of, or payment for, assistive technology devices and assistive technology services; or

''(ii) support for the development of State-financed or privately financed alternative financing systems of subsidies (which may include conducting an initial 1-year feasibility study of, improving, administering, operating, providing capital for, or collaborating with an entity with respect to, such a system) for the provision of assistive technology devices, such as—

''(I) a low-interest loan fund;

''(II) an interest buy-down program;

''(III) a revolving loan fund;

''(IV) a loan guarantee or insurance program;

''(V) a program providing for the purchase, lease, or other acquisition of assistive technology devices or assistive technology services; or

''(VI) another mechanism that is approved by the Secretary.

''(B) DEVICE REUTILIZATION PROGRAMS.—The State shall directly, or in collaboration with public or private entities, carry out assistive technology device reutilization programs that provide for the exchange, repair, recycling, or other reutilization of assistive technology devices, which may include redistribution through device sales, loans, rentals, or donations.

''(C) DEVICE LOAN PROGRAMS.—The State shall directly, or in collaboration with public or private entities, carry out device loan programs that provide short-term loans of assistive technology devices to individuals, employers, public agencies, or others seeking to meet the needs of targeted individuals and entities, including others seeking to comply with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

''(D) DEVICE DEMONSTRATIONS.—

''(i) IN GENERAL.—The State shall directly, or in collaboration with public and private entities, such as one-stop partners, as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801), demonstrate a variety of assistive technology devices and assistive technology services (including assisting individuals in making informed choices regarding, and providing experiences with, the devices and services), using personnel who are familiar with such devices and services and their applications.

''(ii) COMPREHENSIVE INFORMATION.—The State shall directly, or through referrals, provide to individuals, to the extent practicable, comprehensive information about State and local assistive technology venders, providers, and repair services.

''(3) STATE LEADERSHIP ACTIVITIES.—

''(A) IN GENERAL.—A State that receives a grant under this section shall use a portion of not more than 40 percent of the funds made available through the grant to carry out the activities described in subparagraph (B). From that portion, the State shall use at least 5 percent of the portion for activities described in subparagraph (B)(i)(III).

''(B) REQUIRED ACTIVITIES.—

''(i) TRAINING AND TECHNICAL ASSISTANCE.—

''(I) IN GENERAL.—The State shall directly, or provide support to public or private entities with demonstrated expertise in collaborating with public or private agencies that serve individuals with disabilities, to develop and disseminate training materials, conduct training, and provide technical assistance, for individuals from local settings statewide, including representatives of State and local educational agencies, other State and local agencies, early intervention programs, adult service programs, hospitals and other health care facilities, institutions of higher education, and businesses.

''(II) AUTHORIZED ACTIVITIES.—In carrying out activities under subclause (I), the State shall carry out activities that enhance the knowledge, skills, and competencies of individuals from local settings described in subclause (I), which may include—

''(aa) general awareness training on the benefits of assistive technology and the Federal, State, and private funding sources available to assist targeted individuals and entities in acquiring assistive technology;

''(bb) skills-development training in assessing the need for assistive technology devices and assistive technology services;

''(cc) training to ensure the appropriate application and use of assistive technology devices, assistive technology services, and accessible technology for e-government functions;

''(dd) training in the importance of multiple approaches to assessment and implementation necessary to meet the individualized needs of individuals with disabilities; and

''(ee) technical training on integrating assistive technology into the development and implementation of service plans, including any education, health, discharge, Olmstead, employment, or other plan required under Federal or State law.

''(III) TRANSITION ASSISTANCE TO INDIVIDUALS WITH DISABILITIES.—The State shall directly, or provide support to public or private entities to, develop and disseminate training materials, conduct training, facilitate access to assistive technology, and provide technical assistance, to assist—

''(aa) students with disabilities, within the meaning of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), that receive transition services; and

''(bb) adults who are individuals with disabilities maintaining or transitioning to community living.

''(ii) PUBLIC-AWARENESS ACTIVITIES.—

''(I) IN GENERAL.—The State shall conduct public-awareness activities designed to provide information to targeted individuals and entities relating to the availability, benefits, appropriateness, and costs of assistive technology devices and assistive technology services, including—

''(aa) the development of procedures for providing direct communication between providers of assistive technology and targeted individuals and entities, which may include partnerships with entities in the statewide and local workforce investment systems established under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), State vocational rehabilitation centers, public and private employers, or elementary and secondary public schools;

''(bb) the development and dissemination, to targeted individuals and entities, of information about State efforts related to assistive technology; and

''(cc) the distribution of materials to appropriate public and private agencies that provide social, medical, educational, employment, and transportation services to individuals with disabilities.

''(II) COLLABORATION.—The State shall collaborate with entities that receive awards under paragraphs (1) and (3) of section 6(b) to carry out public-awareness activities focusing on infants, toddlers, children, transition-age youth, employment-age adults, seniors, and employers.

''(III) STATEWIDE INFORMATION AND REFERRAL SYSTEM.—

''(aa) IN GENERAL.—The State shall directly, or in collaboration with public or private (such as nonprofit) entities, provide for the continuation and enhancement of a statewide information and referral system designed to meet the needs of targeted individuals and entities.

''(bb) CONTENT.—The system shall deliver information on assistive technology devices, assistive technology services (with specific data regarding provider availability within the State), and the availability of resources, including funding through public and private sources, to obtain assistive technology devices and assistive technology services. The system shall also deliver information on the benefits of assistive technology devices and assistive technology services with respect to enhancing the capacity of individuals with disabilities of all ages to perform activities of daily living.

''(iii) COORDINATION AND COLLABORATION.—The State shall coordinate activities described in paragraph (2) and this paragraph, among public and private entities that are responsible for policies, procedures, or funding for the provision of assistive technology devices and assistive technology services to individuals with disabilities, service providers, and others to improve access to assistive technology devices and assistive technology services for individuals with disabilities of all ages in the State.

''(4) INDIRECT COSTS.—Not more than 10 percent of the funds made available through a grant to a State under this section may be used for indirect costs.

''(5) PROHIBITION.—Funds made available through a grant to a State under this section shall not be used for direct payment for an assistive technology device for an individual with a disability.

''(6) STATE FLEXIBILITY.—

''(A) IN GENERAL.—Notwithstanding paragraph (1)(A) and subject to subparagraph (B), a State may use funds that the State receives under a grant awarded under this section to carry out any 2 or more of the activities described in paragraph (2).

''(B) SPECIAL RULE.—Notwithstanding paragraph (3)(A), any State that exercises its authority under subparagraph (A)—

''(i) shall carry out each of the required activities described in paragraph (3)(B); and

''(ii) shall use not more than 30 percent of the funds made available through the grant to carry out the activities described in paragraph (3)(B).

''(f) ANNUAL PROGRESS REPORTS.—

''(1) DATA COLLECTION.—States shall participate in data collection as required by law, including data collection required for preparation of the reports described in paragraph (2).

''(2) REPORTS.—

''(A) IN GENERAL.—Each State shall prepare and submit to the Secretary an annual progress report on the activities funded under this Act, at such time, and in such manner, as the Secretary may require.

''(B) CONTENTS.—The report shall include data collected pursuant to this section. The report shall document, with respect to activities carried out under this section in the State—

''(i) the type of State financing activities described in subsection (e)(2)(A) used by the State;

''(ii) the amount and type of assistance given to consumers of the State financing activities described in subsection (e)(2)(A) (who shall be classified by type of assistive technology device or assistive technology service financed through the State financing activities, and geographic distribution within the State), including—

''(I) the number of applications for assistance received;

''(II) the number of applications approved and rejected;

''(III) the default rate for the financing activities;

''(IV) the range and average interest rate for the financing activities;

''(V) the range and average income of approved applicants for the financing activities; and

''(VI) the types and dollar amounts of assistive technology financed;

''(iii) the number, type, and length of time of loans of assistive technology devices provided to individuals with disabilities, employers, public agencies, or public accommodations through the device loan program described in subsection (e)(2)(C), and an analysis of the individuals with disabilities who have benefited from the device loan program;

''(iv) the number, type, estimated value, and scope of assistive technology devices exchanged, repaired, recycled, or reutilized (including redistributed through device sales, loans, rentals, or donations) through the device reutilization program described in subsection (e)(2)(B), and an analysis of the individuals with disabilities that have benefited from the device reutilization program;

''(v) the number and type of device demonstrations and referrals provided under subsection (e)(2)(D), and an analysis of individuals with disabilities who have benefited from the demonstrations and referrals;

''(vi)(I) the number and general characteristics of individuals who participated in training under subsection (e)(3)(B)(i) (such as individuals with disabilities, parents, educators, employers, providers of employment services, health care workers, counselors, other service providers, or vendors) and the topics of such training; and

''(II) to the extent practicable, the geographic distribution of individuals who participated in the training;

''(vii) the frequency of provision and nature of technical assistance provided to State and local agencies and other entities;

''(viii) the number of individuals assisted through the public-awareness activities and statewide information and referral system described in subsection (e)(3)(B)(ii);

''(ix) the outcomes of any improvement initiatives carried out by the State as a result of activities funded under this section, including a description of any written policies, practices, and procedures that the State has developed and implemented regarding access to, provision of, and funding for, assistive technology devices, and assistive technology services, in the contexts of education, health care, employment, community living, and information technology and telecommunications, including e-government;

''(x) the source of leveraged funding or other contributed resources, including resources provided through subcontracts or other collaborative resource-sharing agreements, from and with public and private entities to carry out State activities described in subsection (e)(3)(B)(iii), the number of individuals served with the contributed resources for which information is not reported under clauses (i) through (ix) or clause (xi) or (xii), and other outcomes accomplished as a result of such activities carried out with the contributed resources; and

''(xi) the level of customer satisfaction with the services provided.

''SEC. 5. STATE GRANTS FOR PROTECTION AND ADVOCACY SERVICES RELATED TO ASSISTIVE TECHNOLOGY.

''(a) GRANTS.—

''(1) IN GENERAL.—The Secretary shall make grants under subsection (b) to protection and advocacy systems in each State for the purpose of enabling such systems to assist in the acquisition, utilization, or maintenance of assistive technology devices or assistive technology services for individuals with disabilities.

''(2) GENERAL AUTHORITIES.—In providing such assistance, protection and advocacy systems shall have the same general authorities as the systems are afforded under subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.), as determined by the Secretary.

''(b) GRANTS.—

''(1) RESERVATION.—For each fiscal year, the Secretary shall reserve such sums as may be necessary to carry out paragraph (4).

''(2) POPULATION BASIS.—From the funds appropriated under section 8(b) for a fiscal year and remaining after the reservation required by paragraph (1) has been made, the Secretary shall make a grant to a protection and advocacy system within each State in an amount bearing the same ratio to the remaining funds as the population of the State bears to the population of all States.

''(3) MINIMUMS.—Subject to the availability of appropriations, the amount of a grant to a protection and advocacy system under paragraph (2) for a fiscal year shall—

''(A) in the case of a protection and advocacy system located in American Samoa, Guam, the United States Virgin Islands, or the Commonwealth of the Northern Mariana Islands, not be less than $30,000; and

''(B) in the case of a protection and advocacy system located in a State not described in subparagraph (A), not be less than $50,000.

''(4) PAYMENT TO THE SYSTEM SERVING THE AMERICAN INDIAN CONSORTIUM.—

''(A) IN GENERAL.—The Secretary shall make grants to the protection and advocacy system serving the American Indian Consortium to provide services in accordance with this section.

''(B) AMOUNT OF GRANTS.—The amount of such grants shall be the same as the amount provided under paragraph (3)(A).

''(c) DIRECT PAYMENT.—Notwithstanding any other provision of law, the Secretary shall pay directly to any protection and advocacy system that complies with this section, the total amount of the grant made for such system under this section, unless the system provides otherwise for payment of the grant amount.

''(d) CERTAIN STATES.—

''(1) GRANT TO LEAD AGENCY.—Notwithstanding any other provision of this section, with respect to a State that, on November 12, 1998, was described in section 102(f)(1) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, the Secretary shall pay the amount of the grant described in subsection (a), and made under subsection (b), to the lead agency designated under section 4(c)(1) for the State.

''(2) DISTRIBUTION OF FUNDS.—A lead agency to which a grant amount is paid under paragraph (1) shall determine the manner in which funds made available through the grant will be allocated among the entities that were providing protection and advocacy services in that State on the date described in such paragraph, and shall distribute funds to such entities. In distributing such funds, the lead agency shall not establish any additional eligibility or procedural requirements for an entity in the State that supports protection and advocacy services through a protection and advocacy system. Such an entity shall comply with the same requirements (including reporting and enforcement requirements) as any other entity that receives funding under this section.

''(3) APPLICATION OF PROVISIONS.—Except as provided in this subsection, the provisions of this section shall apply to the grant in the same manner, and to the same extent, as the provisions apply to a grant to a system.

''(e) CARRYOVER.—Any amount paid to an eligible system for a fiscal year under this section that remains unobligated at the end of such fiscal year shall remain available to such system for obligation during the subsequent fiscal year. Program income generated from such amount shall remain available for 2 additional fiscal years after the year in which such amount was paid to an eligible system and may only be used to improve the awareness of individuals with disabilities about the accessibility of assistive technology and assist such individuals in the acquisition, utilization, or maintenance of assistive technology devices or assistive technology services.

''(f) REPORT TO SECRETARY.—An entity that receives a grant under this section shall annually prepare and submit to the Secretary a report that contains such information as the Secretary may require, including documentation of the progress of the entity in—

''(1) conducting consumer-responsive activities, including activities that will lead to increased access, for individuals with disabilities, to funding for assistive technology devices and assistive technology services;

''(2) engaging in informal advocacy to assist in securing assistive technology devices and assistive technology services for individuals with disabilities;

''(3) engaging in formal representation for individuals with disabilities to secure systems change, and in advocacy activities to secure assistive technology devices and assistive technology services for individuals with disabilities;

''(4) developing and implementing strategies to enhance the long-term abilities of individuals with disabilities and their family members, guardians, advocates, and authorized representatives to advocate the provision of assistive technology devices and assistive technology services to which the individuals with disabilities are entitled under law other than this Act;

''(5) coordinating activities with protection and advocacy services funded through sources other than this Act, and coordinating activities with the capacity building and advocacy activities carried out by the lead agency; and

''(6) effectively allocating funds made available under this section to improve the awareness of individuals with disabilities about the accessibility of assistive technology and assist such individuals in the acquisition, utilization, or maintenance of assistive technology devices or assistive technology services.

''(g) REPORTS AND UPDATES TO STATE AGENCIES.—An entity that receives a grant under this section shall prepare and submit to the lead agency of the State designated under section 4(c)(1) the report described in subsection (f) and quarterly updates concerning the activities described in subsection (f).

''(h) COORDINATION.—On making a grant under this section to an entity in a State, the Secretary shall solicit and consider the opinions of the lead agency of the State with respect to efforts at coordination of activities, collaboration, and promoting outcomes between the lead agency and the entity that receives the grant under this section.

''SEC. 6. NATIONAL ACTIVITIES.

''(a) IN GENERAL.—In order to support activities designed to improve the administration of this Act, the Secretary, under subsection (b)—

''(1) may award, on a competitive basis, grants, contracts, and cooperative agreements to entities to support activities described in paragraphs (1) and (2) of subsection (b); and

''(2) shall award, on a competitive basis, grants, contracts, and cooperative agreements to entities to support activities described in paragraphs (3), (4), and (5) of subsection (b).

''(b) AUTHORIZED ACTIVITIES.—

''(1) NATIONAL PUBLIC-AWARENESS TOOLKIT.—

''(A) NATIONAL PUBLIC-AWARENESS TOOLKIT.—The Secretary may award a 1-time grant, contract, or cooperative agreement to an eligible entity to support a training and technical assistance program that—

''(i) expands public-awareness efforts to reach targeted individuals and entities;

''(ii) contains appropriate accessible multimedia materials to reach targeted individuals and entities, for dissemination to State assistive technology programs; and

''(iii) in coordination with State assistive technology programs, provides meaningful and up-to-date information to targeted individuals and entities about the availability of assistive technology devices and assistive technology services.

''(B) ELIGIBLE ENTITY.—To be eligible to receive the grant, contract, or cooperative agreement, an entity shall develop a partnership that—

''(i) shall consist of—

''(I) a lead agency or implementing entity for a State assistive technology program or an organization or association that represents implementing entities for State assistive technology programs;

''(II) a private or public entity from the media industry;

''(III) a private entity from the assistive technology industry; and

''(IV) a private employer or an organization or association that represents private employers;

''(ii) may include other entities determined by the Secretary to be necessary; and

''(iii) may include other entities determined by the applicant to be appropriate.

''(2) RESEARCH AND DEVELOPMENT.—

''(A) IN GENERAL.—The Secretary may award grants, contracts, or cooperative agreements to eligible entities to carry out research and development of assistive technology that consists of—

''(i) developing standards for reliability and accessibility of assistive technology, and standards for interoperability (including open standards) of assistive technology with information technology, telecommunications products, and other assistive technology; or

''(ii) developing assistive technology that benefits individuals with disabilities or developing technologies or practices that result in the adaptation, maintenance, servicing, or improvement of assistive technology devices.

''(B) ELIGIBLE ENTITIES.—Entities eligible to receive a grant, contract, or cooperative agreement under this paragraph shall include—

''(i) providers of assistive technology services and assistive technology devices;

''(ii) institutions of higher education, including University Centers for Excellence in Developmental Disabilities Education, Research, and Service authorized under subtitle D of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15061 et seq.), or such institutions offering rehabilitation engineering programs, computer science programs, or information technology programs;

''(iii) manufacturers of assistive technology devices; and

''(iv) professionals, individuals, organizations, and agencies providing services or employment to individuals with disabilities.

''(C) COLLABORATION.—An entity that receives a grant, contract, or cooperative agreement under this paragraph shall, in developing and implementing the project carried out through the grant, contract, or cooperative agreement coordinate activities with the lead agency for the State assistive technology program (or a national organization that represents such programs) and the State advisory council described in section 4(c)(2) (or a national organization that represents such councils).

''(3) STATE TRAINING AND TECHNICAL ASSISTANCE.—

''(A) TRAINING AND TECHNICAL ASSISTANCE EFFORTS.—The Secretary shall award a grant, contract, or cooperative agreement to an entity to support a training and technical assistance program that—

''(i) addresses State-specific information requests concerning assistive technology from entities funded under this Act and public entities not funded under this Act, including—

''(I) requests for information on effective approaches to Federal-State coordination of programs for individuals with disabilities, related to improving funding for or access to assistive technology devices and assistive technology services for individuals with disabilities of all ages;

''(II) requests for state-of-the-art, or model, Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for, and access to, assistive technology devices and assistive technology services;

''(III) requests for information on effective approaches to developing, implementing,

evaluating, and sustaining activities described in sections 4 and 5 and related to improving funding for or access to assistive technology devices and assistive technology services for individuals with disabilities of all ages, and requests for assistance in developing corrective action plans;

''(IV) requests for examples of policies, practices, procedures, regulations, or judicial decisions that have enhanced or may enhance access to funding for assistive technology devices and assistive technology services for individuals with disabilities;

''(V) requests for information on effective approaches to the development of consumer-controlled systems that increase access to, funding for, and awareness of, assistive technology devices and assistive technology services; and

''(VI) other requests for training and technical assistance from entities funded under this Act and public and private entities not funded under this Act;

''(ii) assists targeted individuals and entities by disseminating information about—

''(I) Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for, and access to, assistive technology devices and assistive technology services, to promote fuller independence, productivity, and inclusion in society for individuals with disabilities of all ages; and

''(II) technical assistance activities undertaken under clause (i);

''(iii) provides State-specific, regional, and national training and technical assistance concerning assistive technology to entities funded under this Act, other entities funded under this Act, and public and private entities not funded under this Act, including—

''(I) annually providing a forum for exchanging information concerning, and promoting program and policy improvements in, required activities of the State assistive technology programs;

''(II) facilitating onsite and electronic information sharing using state-of-the-art Internet technologies such as real-time online discussions, multipoint video conferencing, and web-based audio/video broadcasts, on emerging topics that affect State assistive technology programs;

''(III) convening experts from State assistive technology programs to discuss and make recommendations with regard to national emerging issues of importance to individuals with assistive technology needs;

''(IV) sharing best practice and evidence-based practices among State assistive technology programs;

''(V) maintaining an accessible website that includes a link to State assistive technology programs, appropriate Federal departments and agencies, and private associations and developing a national toll-free number that links callers from a State with the State assistive technology program in their State;

''(VI) developing or utilizing existing (as of the date of the award involved) model cooperative volume-purchasing mechanisms designed to reduce the financial costs of purchasing assistive technology for required and discretionary activities identified in section 4, and reducing duplication of activities among State assistive technology programs; and

''(VII) providing access to experts in the areas of banking, microlending, and finance, for entities funded under this Act, through site visits, teleconferences, and other means, to ensure access to information for entities that are carrying out new programs or programs that are not making progress in achieving the objectives of the programs; and

''(iv) includes such other activities as the Secretary may require.

''(B) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under this paragraph, an entity shall have (directly or through grant or contract)—

''(i) experience and expertise in administering programs, including developing, implementing, and administering the required and discretionary activities described in sections 4 and 5, and providing technical assistance; and

''(ii) documented experience in and knowledge about banking, finance, and microlending.

''(C) COLLABORATION.—In developing and providing training and technical assistance under this paragraph, including activities identified as priorities, a recipient of a grant, contract, or cooperative agreement under this paragraph shall collaborate with other organizations, in particular—

''(i) organizations representing individuals with disabilities;

''(ii) national organizations representing State assistive technology programs;

''(iii) organizations representing State officials and agencies engaged in the delivery of assistive technology;

''(iv) the data-collection and reporting providers described in paragraph (5); and

''(v) other providers of national programs or programs of national significance funded under this Act.

''(4) NATIONAL INFORMATION INTERNET SYSTEM.—

''(A) IN GENERAL.—The Secretary shall award a grant, contract, or cooperative agreement to an entity to renovate, update, and maintain the National Public Internet Site established under this Act (as in effect on the day before the date of enactment of the Assistive Technology Act of 2004).

''(B) FEATURES OF INTERNET SITE.—The National Public Internet Site shall contain the following features:

''(i) AVAILABILITY OF INFORMATION AT ANY TIME.—The site shall be designed so that any member of the public may obtain information posted on the site at any time.

''(ii) INNOVATIVE AUTOMATED INTELLIGENT AGENT.—The site shall be constructed with an innovative automated intelligent agent that is a diagnostic tool for assisting users in problem definition and the selection of appropriate assistive technology devices and assistive technology services resources.

''(iii) RESOURCES.—

''(I) LIBRARY ON ASSISTIVE TECHNOLOGY.—The site shall include access to a comprehensive working library on assistive technology for all environments, including home, workplace, transportation, and other environments.

''(II) INFORMATION ON ACCOMMODATING INDIVIDUALS WITH DISABILITIES.—The site shall include access to evidence-based research and best practices concerning how assistive technology can be used to accommodate individuals with disabilities in the areas of education, employment, health care, community living, and telecommunications and information technology.

''(III) RESOURCES FOR A NUMBER OF DISABILITIES.—The site shall include resources relating to the largest possible number of disabilities, including resources relating to low-level reading skills.

''(iv) LINKS TO PRIVATE-SECTOR RESOURCES AND INFORMATION.—To the extent feasible, the site shall be linked to relevant private-sector resources and information, under agreements developed between the recipient of the grant, contract, or cooperative agreement and cooperating private-sector entities.

''(v) LINKS TO PUBLIC-SECTOR RESOURCES AND INFORMATION.—To the extent feasible, the site shall be linked to relevant public-sector resources and information, such as the Internet sites of the Office of Special Education and Rehabilitation Services of the Department of Education, the Office of Disability Employment Policy of the Department of Labor, the Small Business Administration, the Architectural and Transportation Barriers Compliance Board, the Technology Administration of the Department of Commerce, the Jobs Accommodation Network funded by the Office of Disability Employment Policy of the Department of Labor, and other relevant sites.

''(vi) MINIMUM LIBRARY COMPONENTS.—At a minimum, the site shall maintain updated information on—

''(I) State assistive technology program demonstration sites where individuals may try out assistive technology devices;

''(II) State assistive technology program device loan program sites where individuals may borrow assistive technology devices;

''(III) State assistive technology program device reutilization program sites;

''(IV) alternative financing programs or State financing systems operated through, or independently of, State assistive technology programs, and other sources of funding for assistive technology devices; and

''(V) various programs, including programs with tax credits, available to employers for hiring or accommodating employees who are individuals with disabilities.

''(C) ELIGIBLE ENTITY.—To be eligible to receive a grant, contract, or cooperative agreement under this paragraph, an entity shall be a nonprofit organization, for-profit organization, or institution of higher education, that—

''(i) emphasizes research and engineering;

''(ii) has a multidisciplinary research center; and

''(iii) has demonstrated expertise in—

''(I) working with assistive technology and intelligent agent interactive information dissemination systems;

''(II) managing libraries of assistive technology and disability-related resources;

''(III) delivering to individuals with disabilities education, information, and referral services, including technology-based curriculum-development services for adults with low-level reading skills;

''(IV) developing cooperative partnerships with the private sector, particularly with private-sector computer software, hardware, and Internet services entities; and

''(V) developing and designing advanced Internet sites.

''(5) DATA-COLLECTION AND REPORTING ASSISTANCE.—

''(A) IN GENERAL.—The Secretary shall award grants, contracts, and cooperative agreements to entities to assist the entities in carrying out State assistive technology programs in developing and implementing effective data-collection and reporting systems that—

''(i) focus on quantitative and qualitative data elements;

''(ii) measure the outcomes of the required activities described in section 4 that are implemented by the States and the progress of the States toward achieving the measurable goals described in section 4(d)(3);

''(iii) provide States with the necessary information required under this Act or by the Secretary for reports described in section 4(f)(2); and

''(iv) help measure the accrued benefits of the activities to individuals who need assistive technology.

''(B) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative

agreement under this paragraph, an entity shall have personnel with—

''(i) documented experience and expertise in administering State assistive technology programs;

''(ii) experience in collecting and analyzing data associated with implementing required and discretionary activities;

''(iii) expertise necessary to identify additional data elements needed to provide comprehensive reporting of State activities and outcomes; and

''(iv) experience in utilizing data to provide annual reports to State policymakers.

''(c) APPLICATION.—To be eligible to receive a grant, contract, or cooperative agreement under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(d) INPUT.—With respect to the activities described in subsection (b) to be funded under this section, including the national and regionally based training and technical assistance efforts carried out through the activities, in designing the activities the Secretary shall consider, and in providing the activities providers shall include, input of the directors of comprehensive statewide programs of technology-related assistance, directors of alternative financing programs, and other individuals the Secretary determines to be appropriate, especially—

''(1) individuals with disabilities who use assistive technology and understand the barriers to the acquisition of such technology and assistive technology services;

''(2) family members, guardians, advocates, and authorized representatives of such individuals;

''(3) individuals employed by protection and advocacy systems funded under section 5;

''(4) relevant employees from Federal departments and agencies, other than the Department of Education;

''(5) representatives of businesses; and

''(6) venders and public and private researchers and developers.

''SEC. 7. ADMINISTRATIVE PROVISIONS.

''(a) GENERAL ADMINISTRATION.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Assistant Secretary for Special Education and Rehabilitative Services of the Department of Education, acting through the Rehabilitation Services Administration, shall be responsible for the administration of this Act.

''(2) COLLABORATION.—The Assistant Secretary for Special Education and Rehabilitative Services shall consult with the Office of Special Education Programs, the Rehabilitation Services Administration, and the National Institute on Disability and Rehabilitation Research in the Office of Special Education and Rehabilitative Services, and appropriate Federal entities in the administration of this Act.

''(3) ADMINISTRATION.—In administering this Act, the Rehabilitation Services Administration shall ensure that programs funded under this Act will address the needs of individuals with disabilities of all ages, whether the individuals will use the assistive technology to obtain or maintain employment, to obtain education, or for other reasons.

''(4) ORDERLY TRANSITION.—

''(A) IN GENERAL.—The Secretary shall take such steps as the Secretary determines to be appropriate to provide for the orderly transition to, and implementation of, programs authorized by this Act, from programs authorized by the Assistive Technology Act of 1998, as in effect on the day before the date of enactment of the Assistive Technology Act of 2004.

''(B) CESSATION OF EFFECTIVENESS.—Subparagraph (A) ceases to be effective on the date that is 6 months after the date of enactment of the Assistive Technology Act of 2004.

''(b) REVIEW OF PARTICIPATING ENTITIES.—

''(1) IN GENERAL.—The Secretary shall assess the extent to which entities that receive grants under this Act are complying with the applicable requirements of this Act and achieving measurable goals that are consistent with the requirements of the grant programs under which the entities received the grants.

''(2) PROVISION OF INFORMATION.—To assist the Secretary in carrying out the responsibilities of the Secretary under this section, the Secretary may require States to provide relevant information, including the information required under subsection (d).

''(c) CORRECTIVE ACTION AND SANCTIONS.—

''(1) CORRECTIVE ACTION.—If the Secretary determines that an entity that receives a grant under this Act fails to substantially comply with the applicable requirements of this Act, or to make substantial progress toward achieving the measurable goals described in subsection (b)(1) with respect to the grant program, the Secretary shall assist the entity, through technical assistance funded under section 6 or other means, within 90 days after such determination, to develop a corrective action plan.

''(2) SANCTIONS.—If the entity fails to develop and comply with a corrective action plan described in paragraph (1) during a fiscal year, the entity shall be subject to 1 of the following corrective actions selected by the Secretary:

''(A) Partial or complete termination of funding under the grant program, until the entity develops and complies with such a plan.

''(B) Ineligibility to participate in the grant program in the following year.

''(C) Reduction in the amount of funding that may be used for indirect costs under section 4 for the following year.

''(D) Required redesignation of the lead agency designated under section 4(c)(1) or an entity responsible for administering the grant program.

''(3) APPEALS PROCEDURES.—The Secretary shall establish appeals procedures for entities that are determined to be in noncompliance with the applicable requirements of this Act, or have not made substantial progress toward achieving the measurable goals described in subsection (b)(1).

''(4) SECRETARIAL ACTION.—As part of the annual report required under subsection (d), the Secretary shall describe each such action taken under paragraph (1) or (2) and the outcomes of each such action.

''(5) PUBLIC NOTIFICATION.—The Secretary shall notify the public, by posting on the Internet website of the Department of Education, of each action taken by the Secretary under paragraph (1) or (2). As a part of such notification, the Secretary shall describe each such action taken under paragraph (1) or (2) and the outcomes of each such action.

''(d) ANNUAL REPORT TO CONGRESS.—

''(1) IN GENERAL.—Not later than December 31 of each year, the Secretary shall prepare, and submit to the President and to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, a report on the activities funded under this Act to improve the access of individuals with disabilities to assistive technology devices and assistive technology services.

''(2) CONTENTS.—Such report shall include—

''(A) a compilation and summary of the information provided by the States in annual progress reports submitted under section 4(f); and

''(B) a summary of the State applications described in section 4(d) and an analysis of the progress of the States in meeting the measurable goals established in State applications under section 4(d)(3).

''(e) CONSTRUCTION.—Nothing in this section shall be construed to affect the enforcement authority of the Secretary, another Federal officer, or a court under part D of the General Education Provisions Act (20 U.S.C. 1234 et seq.) or other applicable law.

''(f) EFFECT ON OTHER ASSISTANCE.—This Act may not be construed as authorizing a Federal or State agency to reduce medical or other assistance available, or to alter eligibility for a benefit or service, under any other Federal law.

''(g) RULE.—The Assistive Technology Act of 1998 (as in effect on the day before the date of enactment of the Assistive Technology Act of 2004) shall apply to funds appropriated under the Assistive Technology Act of 1998 for fiscal year 2004.

''SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

''(a) STATE GRANTS FOR ASSISTIVE TECHNOLOGY AND NATIONAL ACTIVITIES.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out sections 4 and 6 such sums as may be necessary for each of fiscal years 2005 through 2010.

''(2) RESERVATION.—

''(A) DEFINITION.—In this paragraph, the term 'higher appropriation year' means a fiscal year for which the amount appropriated under paragraph (1) and made available to carry out section 4 is at least $665,000 greater than the amount that—

''(i) was appropriated under section 105 of this Act (as in effect on October 1, 2003) for fiscal year 2004; and

''(ii) was not reserved for grants under section 102 or 104 of this Act (as in effect on such date) for fiscal year 2004.

''(B) AMOUNT RESERVED FOR NATIONAL ACTIVITIES.—Of the amount appropriated under paragraph (1) for a fiscal year—

''(i) not more than $1,235,000 may be reserved to carry out section 6, except as provided in clause (ii); and

''(ii) for a higher appropriation year—

''(I) not more than $1,900,000 may be reserved to carry out section 6; and

''(II) of the amount so reserved, the portion exceeding $1,235,000 shall be used to carry out paragraphs (1) and (2) of section 6(b).

''(b) STATE GRANTS FOR PROTECTION AND ADVOCACY SERVICES RELATED TO ASSISTIVE TECHNOLOGY.—There are authorized to be appropriated to carry out section 5 $4,419,000 for fiscal year 2005 and such sums as may be necessary for each of fiscal years 2006 through 2010.''.

SEC. 3. CONFORMING AMENDMENTS.

(a) DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT OF 2000.—The Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.) is amended—

(1) in section 124(c)(3)(B), by striking ''section 101 or 102 of the Assistive Technology Act of 1998 (29 U.S.C. 3011, 3012)'' and inserting ''section 4 or 5 of the Assistive Technology Act of 1998'';

(2) in section 125(c)(5)(G)(i), by striking ''section 101 or 102 of the Assistive Technology Act of 1998 (29 U.S.C. 3011, 3012)'' and inserting ''section 4 or 5 of the Assistive Technology Act of 1998'';

(3) in section 143(a)(2)(D)(ii), by striking ''section 101 or 102 of the Assistive Technology Act of 1998 (29 U.S.C. 3011, 3012)'' and inserting ''section 4 or 5 of the Assistive Technology Act of 1998''; and

(4) in section 154(a)(3)(E)(ii)(VI), by striking ''section 101 or 102 of the Assistive Technology Act of 1998 (29 U.S.C. 3011, 3012)'' and inserting ''section 4 or 5 of the Assistive Technology Act of 1998''.

(b) REHABILITATION ACT OF 1973.—The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) is amended—

(1) in section 203, by striking subsection (e) and inserting the following:

''(e) In this section—

''(1) the terms 'assistive technology' and 'universal design' have the meanings given the terms in section 3 of the Assistive Technology Act of 1998; and

''(2) the term 'targeted individuals' has the meaning given the term 'targeted individuals and entities' in section 3 of the Assistive Technology Act of 1998.'';

(2) in section 401(c)(2), by striking ''targeted individuals'' and inserting ''targeted individuals and entities''; and

(3) in section 502(d), by striking ''targeted individuals'' and inserting ''targeted individuals and entities''.

SA 3944. Mr. INHOFE (for Mr. LEAHY (for himself and Mr. HATCH) proposed an amendment to the bill H.R. 2714, to reauthorize the State Justice Institute; as follows:

On page 3, after line 5, add the following:

SEC. 4. LAW ENFORCEMENT ARMOR VESTS.

Section 1001(a)(23) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(23)) is amended by striking ''2004'' and inserting ''2007''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, September 30 at 10:30 a.m. to receive testimony regarding issues relating to low level radioactive waste.

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

COMMITTEE ON THE JUDICIARY

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to continue its markup on Thursday, September 30, 2004 at 9:30 a.m. in Dirksen Senate Office Building Room 226.

Agenda

I. Nominations

Claude A. Allen, to be U.S. Circuit Judge for the Fourth Circuit; Susan B. Neilson, to be United States Circuit Judge for the Sixth Circuit; Micaela Alvarez, to be United States District Judge for the Southern District of Texas; Keith Starrett, to be United States District Judge for the Southern District of Mississippi; Christopher Boyko, to be United States District Judge for the Northern District of Ohio; Raymond L. Finch, to be Judge for the District Court of the Virgin Islands for a term of ten years, reappointment; David E. Nahmias, to be United States Attorney for the Northern District of Georgia; Richard B. Roper, to be United States Attorney for the Northern District of Texas for the term of four years; Lisa Wood, to be United States Attorney for the Southern District of Georgia for the term of four years; Ricardo H. Hinojosa, to be Chair of the United States Sentencing Commission; Michael O'Neill, to be a Member of the United States Sentencing Commission; Ruben Castillo, to be a Member of the United States Sentencing Commission; Beryl Alaine Howell, to be a Member of the United States Sentencing Commission; and William Sanchez, to be Special Counsel for Immigration-Related Unfair Employment Practice.

II. Legislation

S. 1635, L–1 Visa (Intracompany Transferee) Reform Act of 2003, Chambliss;

S. 2396, Federal Courts Improvement Act of 2004, Hatch, Leahy, Chambliss, Durbin, Schumer;

S. 2204, A bill to provide criminal penalties for false information and hoaxes relating to terrorism Act of 2004, Hatch, Schumer, Cornyn, Feinstein, DeWine;

S. 1860, A bill to reauthorize the Office of National Drug Control Policy Act of 2003, Hatch, Biden, Grassley;

S. 2195, A bill to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors Act of 2004, Biden, Hatch, Grassely, Feinstein;

S. 2560, A bill to amend chapter 5 of title 17, United States Code, relating to inducement of copyright infringement, and for other purposes Act of 2004, Hatch, Leahy, Graham;

S.J. Res. 23, A joint resolution proposing an amendment to the Constitution of the United States providing for the event that one-fourth of the members of either the House of Representatives or the Senate are killed or incapacitated Act of 2003, Cornyn, Chambliss;

S. 2373, A bill to modify the prohibition on recognition by United States courts of certain rights relating to certain marks, trade names, or commercial names, Domenici, Graham, Sessions;

S. 1784, A bill to eliminate the safe-harbor exception for certain packaged pseudoephedrine products used in the manufacture of methamphetamine Act of 2003, Feinstein, Grassley, Kohl, Biden, Kyl, Schumer;

S. ____, A bill to reauthorize the Department of Justice, Hatch;

H.R. 2391, To amend title 35, United States Code, to promote cooperative research involving universities, the public sector, and private enterprises Act of 2003, Smith–TX;

S. 2760, A bill to limit and expedite Federal collateral review of convictions for killing a public safety officer Act of 2004, Kyl, Hatch, Craig, Cornyn, Sessions, Chambliss;

S. 115, Private Bill; A bill for the relief of Richi James Lesley Act of 2004, Cochran;

S. 2331, A bill for the relief of Fereshteh Sani Act of 2004, Allen;

S. 1042, Private Bill; A bill for the relief of Tchisou Tho Act of 2003, Coleman;

S. 2314, A bill for the relief of Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan Act of 2004, Durbin;

S. 353, Private Bill; A bill for the relief of Denes and Gyorgyi Fulop Act of 2003, Feinstein;

H.R. 867, Private Bill; For the relief of Durreshahwar Durreshahwar, Nida Hasan, Asna Hasan, Anum Hasan, and Iqra Hasan Act of 2003, Holt–NJ;

S. 989, A bill to provide death and disability benefits for aerial firefighters who work on a contract basis for a public agency and suffer death or disability in the line of duty, and for other purposes Act of 2003, Enzi, Reid;

S. 1728, Terrorism Victim Compensation Equity Act of 2003, Specter, Leahy, Schumer;

S. 549, A bill to amend the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note; Public Law 107–42) to provide compensation for victims killed in the bombing of the World Trade Center in 1993, and for other purposes Act of 2003, Schumer;

S. 1740, Anthrax Victims Fund Fairness Act of 2003, Leahy, Feingold; and

S. Res. 424, A resolution designating October 2004 as ''Protecting Older Americans From Fraud Month'' Act of 2004, Craig, DeWine, Feinstein, Kohl, Sessions, Hatch.

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

COMMITTEE ON VETERANS' AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, September 30, 2004, to consider the nominations of Mary J. Schoelen and William A. Moorman to be Judges, U.S. Court of Appeals for Veterans' Claims, and Robert Allen Pittman to be Assistant Secretary of Human Resources and Administration, Department of Veterans Affairs. The hearing will take place in room 418 of the Russell Senate Office Building at 2:00 p.m.

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

SUBCOMMITTEE ON COMMUNICATIONS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Subcommittee on Communications be authorized to meet on September 30, 2004, at 2:30 pm. on ICANN Oversight/Security of Internet Root Servers and the Domain Name System (DNS).

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

SUBCOMMITTEE ON FINANCIAL MANAGEMENT, THE BUDGET, AND INTERNATIONAL SECURITY

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs' Subcommittee on Financial Management, the Budget, and International Security be authorized to meet on Thursday, September 30, 2004 at 10:30 a.m. for a hearing entitled, ''Oversight Hearing

on Section 529 College Savings Plans: High Fees, Inadequate Disclosure, Disparate State Tax Treatment and Questionable Broker Sales Practices.''

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

PRIVILEGE OF THE FLOOR

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that Dr. Jonathan Epstein, who is a legislative fellow in Senator BINGAMAN's office, be granted the privilege of the floor during the pendency of S. 2845 and any votes thereon.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations on the Executive Calendar, and for the information of Members, these are uniformed military promotions that were reported today by the Armed Services Committee: 867 through 900, and all nominations on the Secretary's desk in the Air Force, Army, Marine Corps, and Navy.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

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

The nominations were considered and confirmed, as follows:

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Bruce A. Carlson

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Dennis R. Larsen

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. William M. Fraser, III

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Carrol H. Chandler

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Stephen G. Wood

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force to the grades indicated under title 10, U.S.C., section 12203:

To be brigadier general

Colonel Robert A. Knauff

The following named officer for appointment to the grade indicated in the United States Air Force under title 10, United States Code, section 9335:

To be brigadier general

Col. Dana H. Born

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Marshall K. Sabol

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Benjamin S. Griffin

The following named officer for appointment as The Surgeon General, United States Army, and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 601 and 3036:

To be lieutenant general

Maj. Gen. Kevin C. Kiley

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. James J. Lovelace, Jr.

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. James M. Dubik

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Robert T. Dail

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. David F. Melcher

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. R. Steven Whitcomb

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. David D. McKiernan

The following named officer for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. James E. Archer
Brig. Gen. Steven P. Best
Brig. Gen. Jack C. Stultz

To be brigadier general

Col. Edward L. Arntson, II
Col. Gregory A. Schumacher
Col. Maynard J. Sanders
Col. Jack F. Nevin
Col. Adolph McQueen, Jr.
Col. Glenn J. Lesniak
Col. Margrit M. Farmer
Col. Norman H. Andersson

To be major general

Brig. Gen. Peter S. Cooke

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Karl R. Horst

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Dana D. Batey

The following named officer for appointment to the grade indicated in the United States Army Veterinary Corps under title 10, U.S.C., sections 3064 and 3084:

To be brigadier general

Col. Michael B. Cates

IN THE MARINE CORPS

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. James N. Mattis

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Edward Hanlon, Jr.

IN THE NAVY

The following named officer for appointment to the grade of Admiral in the United States Navy while assigned to a position of importance and responsibility under title 10, U.S.C., section 601 and title 50, U.S.C., section 2406:

To be admiral

Vice Adm. Kirkland H. Donald

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Charles L. Munns

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. James K. Moran

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Joseph A. Sestak, Jr.

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Mark P. Fitzgerald

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Gary Roughead

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Lewis W. Crenshaw, Jr.

The following named officer for appointment as Deputy Judge Advocate General of the Navy in the grade indicated under title 10, U.S.C., section 5149:

To be rear admiral

Capt. Bruce E. MacDonald

The following named officer for appointment as Judge Advocate General of the Navy in the grade indicated under title 10, U.S.C., section 5149:

To be rear admiral

Rear Adm. James E. McPherson

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral (lower half)

Capt. Norton C. Joerg

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Captain Gerald R. Beaman
Captain Mark S. Boensel
Captain John H. Bowling, II
Captain Mark H. Buzby
Captain Dan W. Davenport
Captain William E. Gortney
Captain Michael R. Groothousen
Captain Victor Guillory
Captain Cecil E. Haney
Captain Harry B. Harris, Jr.
Captain James M. Hart
Captain Ronald H. Henderson, Jr.
Captain Joseph D. Kernan
Captain Raymond M. Klein
Captain Charles J. Leidig, Jr.
Captain Archer M. Macy, Jr.
Captain Michael K. Mahon
Captain Chalres W. Martoglio
Captain Walter M. Skinner
Captain Scott R. Vanbuskirk
Captain Michael C. Vitale
Captain Richard B. Wren

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be read admiral (lower half)

Capt. Christine S. Hunter

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN1848 AIR FORCE nomination of Marjorie B. Medina, which was received by the Senate and appeared in the Congressional Record of July 22, 2004.

PN1849 AIR FORCE nomination of Henry Lee Einsel Jr., which was received by the Senate and appeared in the Congressional Record of July 22, 2004.

PN1850 AIR FORCE nomination of Robert L. Munson, which was received by the Senate and appeared in the Congressional Record of July 22, 2004.

PN1882 AIR FORCE nomination of James Miller, which was received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1883 AIR FORCE nomination (9) beginning MICHAEL M. HARTING, and ending JOEL C. WRIGHT, which was received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1884 AIR FORCE nomination of Dana J. Nelson, which was received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1885 AIR FORCE nomination of William E. Lindsey, which was received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1886 AIR FORCE nomination of Martin S. Fass, which was received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1923 AIR FORCE nomination of Frank A. Posey, which was received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1924 AIR FORCE nomination of Tracey R.* Rockenbach, which was received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1925 AIR FORCE nominations (2) beginning SHANNON D.* HAILES, and ending MICHAEL F. LAMB, which was received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1926 AIR FORCE nominations (4) beginning TOMMY D.* BOUIE, and ending JENNIFER L.* LUCE, which was received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1954 AIR FORCE nominations (3) beginning NOEL D. MONTGOMERY and ending ALEXANDER V.* SERVINO, which was received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1981 AIR FORCE nominations (2) beginning KATHLEEN HARRINGTON, and ending PAUL E. PIROG, which was received by the Senate and appeared in the Congressional Record of September 21, 2004.

PN1982 AIR FORCE nomination of George J. Krakie, which was received by the Senate and appeared in the Congressional Record of September 21, 2004.

PN1983 AIR FORCE nominations (2) beginning DAVID A. LUJAN, and ending MICHAEL C. SCHRAMM, which was received by the Senate and appeared in the Congressional Record of September 21, 2004.

PN1984 AIR FORCE nominations (5) beginning DOUGLAS A. HABERMAN, and ending MATTHEW S. WARNER, which nominations were received by the Senate and appeared in the Congressional Record of September 21, 2004.

PN1985 AIR FORCE nomination of Martin J. Towey, which was received by the Senate and appeared in the Congressional Record of September 21, 2004.

IN THE ARMY

PN1887 ARMY nominations (34) beginning JUAN H. BANKS, and ending LISA N. YARBROUGH, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1927 ARMY nominations (9) beginning MICHAEL J. BLACHURA, and ending RONALD P. WELCH, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1928 ARMY nominations (6) beginning SCOTT A. AYRES, and ending GERALD I. WALTER, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1929 ARMY nominations (6) beginning MARK A. COSGROVE, and ending RONNIE J. WESTMAN, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1930 ARMY nominations (11) beginning STEVEN H. BULLOCK, and ending JOHN M. STANG, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1931 ARMY nominations (119) beginning MICHAEL N. ALBERTSON, and ending WILLIAM S. WOESSNER, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1932 ARMY nominations (91) beginning JOHN W. AMBERG II, and ending RICHARD G. ZOLLER, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1933 ARMY nominations (176) beginning GILBERT ADAMS, and ending SCOTT W. ZURSCHMIT, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1934 ARMY nominations (75) beginning CELETHIA M. ABNER, and ending CHERUB I. * WILLIAMSON, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1936 ARMY nominations (292) beginning THOMAS L. * ADAMS JR., and ending KATHRYN M. * ZAMBONICUTTER, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1955 ARMY nomination of Raymond L. Naworol, which was received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1956 ARMY nomination of Keith A. George, which was received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1957 ARMY nomination of Curtis L. Beck, which was received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1958 ARMY nomination of Rex A. Harrison, which was received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1959 ARMY nominations (2) beginning KEVIN HAMMOND, and ending MICHAEL KNIPPEL, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1960 ARMY nominations (14) beginning JAIME B. * ANDERSON, and ending JOSEPH G. * WILLIAMSON, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1961 ARMY nominations (102) beginning JAMES R. ANDREWS, and ending SHANDA M. ZUGNER, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1962 ARMY nominations (880) beginning MICHAEL C. AARON, and ending X4130, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1963 ARMY nominations (1830) beginning CHRISTOPHER W. * ABBOTT, and ending X3181, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1986 ARMY nomination of John R. Peloquin, which was received by the Senate and appeared in the Congressional Record of September 21, 2004.

IN THE MARINE CORPS

PN1361 MARINE CORPS nomination of John T. Brower, which was received by the

Senate and appeared in the Congressional Record of February 11, 2004.

PN1888 MARINE CORPS nomination of John M. Sessoms, which was received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1987 MARINE CORPS nomination of Randy O. Carter, which was received by the Senate and appeared in the Congressional Record of September 21, 2004.

IN THE NAVY

PN1889 NAVY nominations (146) beginning ANDREW M ARCHILA, and ending RICHARD G ZEBER, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1890 NAVY nominations (22) beginning RAY A BAILEY, and ending DAVID A STROUD, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1891 NAVY nominations (87) beginning RAYMOND ALEXANDER, and ending MARK A ZIEGLER, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1892 NAVY nominations (52) beginning STEVEN W ASHTON, and ending JASON D ZEDA, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1893 NAVY nominations (140) beginning TAMMERA L ACKISS, and ending KATHLEEN L YUHAS, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1894 NAVY nominations (243) beginning IK J AHN, and ending SARA B ZIMMER, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1895 NAVY nominations (40) beginning KERRY L ABRAMSON, and ending ANDRUE E WALL, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1937 NAVY nomination of Arthur B. Short, which was received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1938 NAVY nomination of Scott Drayton, which was received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1939 NAVY nomination of Cipriano Pineda Jr., which was received received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1940 NAVY nominations (25) beginning MICHAEL P AMSTUTZ JR, and ending JAMES J WOJTOWICZ, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1941 NAVY nominations (31) beginning JERRY L ALEXANDER, and ending LORI C WORKS, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1942 NAVY nominations (41) beginning PATRICK L BENNETT, and ending ERNEST C WOODWARD, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1943 NAVY nominations (19) beginning CLAUDE W ARNOLD JR, and ending STEVEN M WENDELIN, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1944 NAVY nominations (31) beginning CHRISTOPHER L BOWEN, and ending WILLIAM L WOOD, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1945 NAVY nominations (63) beginning JULIE M ALFIERI, and ending DONNA I YACOVONI, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1946 NAVY nominations (21) beginning MARIANIE O BALOLONG, and ending KAREN M WINGEART, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1947 NAVY nominations (239) beginning THOMAS G ALFORD, and ending KENDAL T ZAMZOW, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1948 NAVY nominations (809) beginning RYAN D AARON, and ending DAVID G ZOOK, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1964 NAVY nominations (5) beginning GLENN A. JETT, and ending MATTHEW WILLIAMS, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1965 NAVY nominations (65) beginning RICHARD S ADCOOK, and ending JEFFREY G ZELLER, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 2004

PN1966 NAVY nomination of Daniel C. Ritenburg, which was received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1988 NAVY nomination of Dwayne Banks, which was received by the Senate and appeared in the Congressional Record of September 21, 2004.

PN1989 NAVY nominations (8) beginning BILLY R. DAVIS, and ending WILLIAM H. SPEAKS, which nominations were received by the Senate and appeared in the Congressional Record of September 21, 2004.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

WELFARE REFORM EXTENSION ACT, PART VIII

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of H.R. 5149, which is at the desk.

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

The assistant legislative clerk read as follows:

A bill (H.R. 5149) to reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2005, and for other purposes.

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

Mr. GRASSLEY. Mr. President, the state of children's health insurance program, or SCHIP, is one of the largest and most successful expansion of public health insurance for children since the creation of Medicaid. This vitally important program was created through a bipartisan commitment to expanding health coverage for children. Because today is the last day of the fiscal year for the Federal Government, $1.1 billion in unspent SCHIP funds are set to expire. These are funds that have been reallocated and then subsequently have had their availability extended several times over the past few years. In addition approximately $660 million in unspent 2002 state allotments are available to Secretary Thompson to redistribute to states that have spent their 2002 allotments.

I want to go on the record to say that I am absolutely committed to finding a bipartisan solution that will keep the $1.1 billion in the SCHIP program. Congress can, and should, address this issue before recessing in October, but if not, certainly before the close of the session. I want to work together with my colleagues in both parties toward a productive approach. The SCHIP program was created when people reached across the aisle and joined together to do the right thing to get kids health coverage. Today we need to move forward with this same spirit of cooperation and commitment.

We can also improve the SCHIP program to get more kids covered. In 2003, SCHIP covered 5.8 million targeted low-income individuals. However, a substantial number of children who are eligible for health coverage through SCHIP are not enrolled. This is a serious issue that deserves our thoughtful attention. We can do better.

The Federal Government should commit itself to getting more of these kids enrolled. They are entitled to health coverage under this vitally important program, yet billions of SCHIP dollars lie unspent. These unspent dollars are not helping any children today. I would hope that we can work out a plan to target a portion of the $1.1 billion in expiring SCHIP funding towards a coordinated SCHIP outreach plan so that as many eligible children as possible receive the coverage they deserve.

Of course, I am aware that there are fiscal concerns from states that can impede their ability to use State dollars to match Federal SCHIP dollars. Some are also concerned that increased enrollment will place a burden on states already struggling with the rising cost of health care. I really believe, however, that we can find a way to get more kids covered and provide states incentives to do so.

The fact that these funds are expiring does not mean that the SCHIP program is in danger of imminent collapse. That is not the case. While I am informed by CMS that six States face potential SCHIP shortfalls in FY05, Secretary Thompson has indicated that, unless Congress passes legislation to address these shortfalls, he will redistribute the approximately $660 million in 2002 allotments, which is more than enough to make up for these shortfalls in 2005.

Working together, Congress can reallocate the expiring $1.1 billion after tomorrow with no impact on the SCHIP program. In fact, in the past, Congress has acted months later to reallocate expired SCHIP funds back into the program. So it is not the case that September 30th is the ''drop dead date'' for action. In fact, when the FY1998 and FY1999 reallocations expired at the close of FY2002, Congress acted in 2003 to ''reinstate'' these funds through

September 30, 2004. So, even if Congress acts in November to reallocate these funds, this is how Congress has dealt with the issue in the past and it can be done again.

We can work together to get the job done. I am committed to working with members on both sides of the aisle to reach a bipartisan agreement so that we can keep the $1.1 billion in the SCHIP program, address the projected 6-state shortfall and get as many kids as possible the health care coverage for which they are entitled. I believe we can do it if we all commit ourselves to putting kids first and moving ahead together.

Mr. HATCH. Mr. President, as one of the original authors of the CHIP program, I rise to share my strong support for the Children's Health Insurance Program, CHIP. Many are very worried about unspent CHIP dollars for fiscal year 2002 going back to the Treasury after today. I share those concerns. I want that $1.1 billion to remain available so it can be used to pay for health coverage for children. So does the President. So do my colleagues in both the Senate and the House of Representatives. There is no disagreement on that issue. Let me assure you that this will be resolved.

Regardless of what happens on October 1, every State will receive its new CHIP money for fiscal year 2005. Simply put, all States will be given the funds to cover their CHIP expenses while Congress continues to work on ways to use the unspent CHIP money from fiscal year 2002. It is important to remember that Congress has the power to restore these unspent CHIP funds to states once the new fiscal year has begun. In fact, just last year, Congress acted to restore unspent CHIP funds from fiscal years 1998 and 1999 to states several months after these funds went back to the Treasury. And, let me emphasize, once again, the fiscal year 2002 CHIP funds are not needed by any State for its 2005 CHIP program. No child is in danger of losing his or her CHIP coverage.

CHIP has been, for the most part, a great success. Today, there are 5.8 million children enrolled in the CHIP program. We have made good progress in providing health insurance to uninsured children. We have had great successes with the CHIP program since 1997, when it was first created.

However, important issues concerning the program still must be addressed. I believe that the No. 1 issue is reaching out to CHIP-eligible children who currently are not covered by the program. While many States have been successful with their outreach efforts, that is not the case in all States. I am particularly troubled by the difficulties faced by Native American children. Outreach must be addressed by Congress—my primary goal when we were drafting the original CHIP legislation in 1997 was to ensure that CHIP was available for all eligible children.

My biggest concern with one approach for spending the unspent fiscal year 2002 funds is contained in S. 2759, authored by Senators ROCKEFELLER, CHAFEE, KENNEDY and SNOWE, is that it does not directly help enroll the millions of uninsured children who are eligible for CHIP program. I have reviewed the Rockefeller-Kennedy bill and I am not convinced that it does anything to increase CHIP enrollment. Providing health insurance coverage under CHIP to uninsured children should be our top priority, not redistributing CHIP funding to states. Congress has redistributed leftover CHIP funds to states more than once and I am sure that the legislation has made a significant difference in increasing CHIP enrollment of uninsured, CHIP-eligible children.

That is why I am advocating a different approach and placing a higher priority on outreach to these uninsured children. I strongly support the President's goal to have a broad outreach effort through community-based entities such as hospitals, schools, Indian Health Service hospitals and clinics, tribes and tribal organizations, nonprofit community organizations, and Federally-qualified health centers. I also support performance-based grants for states that are successful in enrolling and covering children. These states should be rewarded for their successes in covering more children, instead of facing higher state costs.

While today marks the end of the fiscal year, it does not mark the end of the CHIP program. It does not mean that the CHIP program is going to lose money. It does not mean that states are going to run out of CHIP funds tomorrow. We all agree that these funds should remain in the CHIP program—we just have different ideas on how that money should be spent. Regardless, I am convinced that we will be able to work together on a solution regarding this important issue. I urge all of my colleagues to work to ensure that all eligible children are covered under the Children's Health Insurance Program.

Mr. BINGAMAN. Mr. President, I come to the floor today to express my dismay that the administration and the Congress have failed to prevent almost $1.1 billion in money that has been previous allocated to the State Children's Health Insurance Program, or SCHIP, from expiring. Families USA points out that the loss of these funds approximate the annual cost of providing health coverage to almost 750,000 children. That failure is unacceptable for a nation such as ours.

However, I am pleased to report that both Finance Committee Chairman GRASSLEY and Senator BAUCUS are moving quickly to pull together a bipartisan group together to resolve this problem as soon as possible. Considering that the chairman is the author of important pieces of legislation, such as the Family Opportunity Act, to improve the health of our Nation's children with special health care needs, it should come as no surprise that he is working to bridge the gap between legislation introduced by Senators ROCKEFELLER and CHAFEE that would preserve and reallocate the $1.1 billion in SCHIP funds and the administration's stated position to preserve the funding but take those dollars currently dedicated to health insurance coverage and use them instead ''to enroll more children who remain uninsured despite being eligible for coverage.''

In light of the chairman's dedication to the issue and commitment to a bipartisan solution, I am hopeful that we will get this resolved, and I urge all parties to work toward a compromise as soon as possible.

What is at stake here? According to data from a Kaiser Commission on Medicaid and the Uninsured report that was released on Monday, there were over 9.1 million children who were uninsured in our country in 2003. There have been important strides made in reducing the number of uninsured children since the passage of SCHIP, as the number of uninsured has dropped from 9.4 million uninsured in 2000 to the 9.1 million in 2003. The uninsured rate would have increased dramatically if not for SCHIP. In fact, the uninsured rate for adults during this same timeperiod increased from 30.2 million to 35.5 million.

Regardless of the improvement in children's health, the fact that over 9 million children remain uninsured is absolutely unacceptable for a nation such as ours.

In fact, if every single child living in the 21 States of Alaska, Arkansas, Delaware, Hawaii, Idaho, Iowa, Kansas, Maine, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Rhode Island, South Dakota, Utah, Vermont, West Virginia, Wyoming, and the District of Columbia were uninsured, that would still be less than 9 million children. In other words, the number of children without health insurance in our nation exceeds the number of all children living in 21 states and the District of Columbia combined.

That is not something anybody in the administration or this chamber should find acceptable. We should be doing everything in our power to, at the very least, preclude the loss of over $1 billion that could be used to reduce that uninsured rate.

In New Mexico, the loss of this money is coupled with the loss of an expiring provision that is very important to our State and 10 others. The Center on Budget and Policy Priorities estimates that New Mexico will lose at least $20 million over the next few years in money for children's health if the administration and Congress fails to act.

Moreover, there was a very important provision that was included in the last redistribution effort that allows the 11 States, including New Mexico, Connecticut, Hawaii, Maryland, Minnesota, New Hampshire, Rhode Island, Tennessee, Vermont, Washington, and

Wisconsin, to use up to 20 percent of allotted and retained funds by our States on children who are enrolled in Medicaid with income above 150 percent of poverty. This provision was included to recognize that our 11 States had enacted health care expansions for children prior to the enactment of SCHIP and were being effectively penalized financially for having done the right thing for children prior to 1997. The reason is that children in the other 39 States are able to receive an enhanced matching rate for children as low as 100 percent of poverty while children in states such as Washington cannot receive an enhanced matching rate until a child lives in a family with income above 200 percent of poverty.

This important compromise, which significantly reduces the inequity among the States, was achieved in large part due to the hard and dedicated work of Senators MURRAY, CANTWELL, JEFFORDS, LEAHY, CHAFEE, REED of Rhode Island, DOMENICI, and FRIST.

Unfortunately, that critically important provision will also effectively expire tonight. This will have a detrimental impact on the health and well-being of the children in these States, as this has been funding that our states have counted on for the delivery of children's health services in both Medicaid and SCHIP for fiscal year 2005.

In Secretary THOMPSON's letter to Senator GRASSLEY on Tuesday and the majority Leader's letter to Senator CHAFEE on September 24, 2004, they both failed to recognize this issue. It is for that reason I raise it here again in the Senate to remind my colleagues and the administration that it is an important issue to our 11 States, including that of the Majority Leader, and that, just as we must find a solution to restoring the $1.1 billion in expiring funding for SCHIP, we must also get this other issue resolved as soon as possible.

I strongly urge the administration to reconsider its position that the $1.1 billion should be completely diverted from health coverage to outreach and enrollment. If implemented as proposed, it would result in over 20 percent of SCHIP dollars in 2005 going to outreach and enrollment. While I am a strong supporter of outreach and enrollment in SCHIP, this proposal is both extreme and excessive. In fact, it should be noted that beginning in fiscal year 2002 that expenditures of federal SCHIP funds have begun to exceed federal SCHIP allotments. Therefore, keeping as much funding in actual health coverage is critically important to continue to reduce the number of uninsured children in our nation.

On the other hand, as the sponsor of legislation with the Congressional Hispanic Caucus that authorizes the use of $50 million of SCHIP funding for outreach and enrollment that was subsequently picked up by the majority leader in legislation he introduced, I firmly believe setting aside a limited portion of the $1.1 billion for outreach and enrollment is both necessary to reach a compromise and would also result in better health coverage for children.

In fact, of the 9.1 million uninsured, according to data from the Kaiser Commission on Medicaid and the Uninsured, 6.8 million live in households that have incomes below 200 percent of poverty, which is the level at which most States provide a combination of coverage for children through either their Medicaid or State Children's Health Insurance Programs. While some of these children would not be eligible for either Medicaid or SCHIP due to their immigration status, it is clear from a variety of studies that somewhere between 60 to 85 percent of uninsured children are eligible for but not enrolled in either Medicaid or SCHIP.

Princeton University's publication entitled The Future of Children dedicated much of one issue to looking at successful efforts to improve outreach and enrollment. As one of its articles notes, ''Most important to reducing the uninsurance problem facing children is raising participation in Medicaid and SCHIP, as 76 percent of uninsured children are already eligible for coverage under SCHIP and Medicaid, but are not enrolled. A continued focus on simple and convenient enrollment and renewal systems, as well as proactive outreach and educational efforts, will be key to reaching these children. Special efforts will be needed to enroll Latino and other minority children, children in immigrant families (families in which at least one member is an immigrant), and adolescents. Children in these groups are all over-represented in the ranks of the eligible, but uninsured.''

In New Mexico, we have our own special program along the U.S.-Mexico border that has been funded by the Bureau of Primary Health Care called Border VISION Fornteriza. The program funds the recruitment and training of community health workers or promotoras that have over the years successfully assisted in the enrollment of thousands of children into health coverage through Medicaid and SCHIP. The program was honored as a model program by the U.S.-Mexico Border Commission and it is precisely this type of program that should be encouraged in whatever agreement is reached.

As a point of comparison, when Congress passed the Medicare prescription drug bill last year, hundreds of millions of dollars was dedicated to doing outreach and enrollment to senior citizens and people with disabilities about the prescription drug cards and the pending drug coverage. In contrast, while States can spend some of their administrative dollars in SCHIP on outreach and enrollment, there are no federal funds exclusively dedicated to conduct outreach and enrollment efforts in either Medicaid or SCHIP.

That should change, and I hope my colleagues will closely review the language introduced by me as part of S. 1159 and in S. 2091 introduced by the majority leader on providing outreach and enrollment funding for children's health.

And finally, I am also hopeful that the Senate will consider legislation by Senator LUGAR and me that would streamline enrollment of children in either Medicaid or SCHIP. Just as we know that low-income senior citizens and the disabled enrolled in Medicare Savings Programs are clearly income eligible for the new Medicare prescription drug card and its $600 annual subsidy, I had introduced legislation with Senator LINCOLN to auto-enroll those Medicare beneficiaries into the drug card to get the $600 subsidy.

Dr. Mark McClellan, Administrator of the Centers for Medicare and Medicaid Services, or CMS, worked hard and has agreed that those beneficiaries should be presumed income-eligible and sent the card for them to activate. Over 1 million low-income senior citizens and people with disabilities will now be getting access to the drug card subsidy that would not have otherwise received those funds.

The same type of mechanism should be applied to children' health. The Children's Partnership and the Kaiser Family Foundation recently released a report on what they call ''Express Lane Eligibility.'' This concept is encompassed in Senator LUGAR's legislation by employing ''two common-sense strategies to find and enroll these nearly seven million 'eligible but uninsured' children in health insurance coverage. . . .''

Those common-sense strategies are: No. 1, it targets large numbers of eligible children where they can be found: in other public benefit programs like school lunch and food stamps. More than 70 percent of low-income uninsured children are already receiving other public assistance benefits of some kind; and No. 2 it expedites children's enrollment in health coverage by using information already submitted by parents when they enrolled their children in other benefit programs.

Again, I urge the Congress to also closely look at this successful model to improve enrollment of children into health insurance coverage.

I am terribly disappointed that the expiring SCHIP funds were not retained in a timely manner, but am hopeful that under the leadership of both Senators GRASSLEY and BAUCUS that we will quickly come to a resolution of this issue in which all the $1.1 billion in restored and retained for children's health. Furthermore, I am hopeful that a portion of that funding will be allocated to outreach and enrollment of children and for streamlining enrollment mechanisms into the program.

Mr. SMITH. Mr. President, as we approach the end of the fiscal year, there are many important issues that require our attention. Not the least among them is the extension of $1.1 billion in unspent S-CHIP funding that will revert to the Treasury if Congress does

not take action. This is a vitally important program to the State of Oregon, and to America's children. We must take action to protect this funding.

The State Children's Health Insurance Program, created in 1997, has always had bi-partisan support. Shortly after being elected to the United States Senate in 1996, I strongly supported the creation of this program. I knew that Congress had an opportunity to reach out to millions of low-income children and provide health care coverage. Working with my colleagues and friends, including Senators ORRIN HATCH and EDWARD KENNEDY, in the development of the bipartisan proposal was a pleasure.

Since 1997, we have all continued to work together, members from both sides of the aisle, to extend funding and make improvements to the program. This year should be no different. I know it is an election year, a presidential election year in fact, and that often creates a dynamic where politics can overwhelm policy. However, I am hopeful that we can once again triumph over partisanship and pass legislation that will intervene and prevent the expiration of $1.1 billion in unspent S-CHIP funding. I am confident that if both sides are reasonable and willing to work together we can accomplish this goal by the time Congress recesses on October 8.

As we prepare to take action on a bill, we need to consider that no one member or group of members have all of the answers; that nobody has a monopoly on protecting America's children. We all work every day to protect our Nation's children and ensure that those who come from low-income families receive the nutritional, housing, education and health care assistance that they need. This time should be no different.

I look forward to working with Senators HATCH and KENNEDY, the creators of this remarkable program; President Bush, a strong advocate for our nation's children; Leader FRIST, Chairman GRASSLEY and others to extend funding for this important program.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 5149) was read the third time and passed.

TO PROVIDE AN EXTENSION OF HIGHWAY, HIGHWAY SAFETY, MOTOR CARRIER SAFETY, TRANSIT, AND OTHER PROGRAMS FUNDED OUT OF THE HIGHWAY TRUST FUND PENDING ENACTMENT OF A LAW REAUTHORIZING THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

Mr. FRIST. I ask unanimous consent that the Senate now proceed to consideration of H.R. 5183, which is at the desk.

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

The assistant legislative clerk read as follows:

A bill (H.R. 5183) to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

There being no objection, the Senate proceeded with the consideration of the bill.

TRANSPORTATION REAUTHORIZATION BILL

Mr. HATCH. Mr. President, today is a disappointing day in the history of Congress. Exactly one year ago, Congress missed the deadline for passing a full transportation reauthorization bill that would fund the Federal portion of highway, transit, and safety projects around the country for the next six-years. The fact that we missed this self-imposed, legislative deadline will come as no surprise to those who follow progress on Capitol Hill, but it is deeply troubling.

Because of the unwillingness of several of my colleagues, Congress is once again forced to use a temporary extension of last year's funding as an inadequate short-term fix to a very real problem. This is an unacceptable outcome and I hope my colleagues will agree we need to pass a fully-funded 6-year bill immediately.

Just as national defense and judicial review are core functions performed by the United States Government to ensure security and fairness for all citizens, transportation infrastructure funding is one of the primary responsibilities of the Federal Government. Adequate transportation infrastructure that is safe and affordable helps facilitate intrastate and interstate trade and provides the physical backbone of our economy. This is certainly a burden that the Federal Government needs to bear on behalf of its citizens. While it was extremely disappointing that Congress allowed the September 30, 2003 deadline to pass without a resolution to this problem, it is simply inexcusable for us to have not successfully addressed this critical need for over a year. I ask my colleagues to commit to coming together before this year's end to pass a six-year reauthorization bill.

I am not naive, I understand that there are always reasons behind the inability for Congress to pass important legislation. And this case is no exception. Over the last year, I have heard the excuses from the legislative and executive branches of government, both Republicans and Democrats. Some argue the transportation funding proposals being debated cost too much; others say they don't provide enough funding to States; still others say the formulas being used to distribute the money are inherently flawed and do not return as much of the Highway Trust Fund proceeds as their State contributes. All of these excuses have merit and need to be worked out to the satisfaction of lawmakers prior to enactment, but it is rational for a person to believe, as I do, that given the high priority transportation funding plays in each and every State, Congress should have reached a compromise by now two years after work on this reauthorization initially began.

As I travel throughout Utah, meeting with the good citizens of my home State, the most frequently-requested issue I am asked to address is the issue of transportation. Every week, Utahns remind me of the constant need we have to maintain our roadways, increase our transit capacity, and provide alternative routes along main arteries in the cities. I certainly understand why this issue is so important to my constituents. Over the last ten years, Utah has seen a dramatic increase in the number of residents who call ''The Beehive State'' home. In fact, there are only three states in the United States who have had larger proportional increases in their populations over the past ten years and all of them border the State of Utah. There is tremendous population growth all over the West, underscoring the critical need we have for a steady increase in transportation funding right now.

The State of Utah receives over $200 million per year in highway funding which goes toward the planning and execution of highway expansion projects. Under the Senate-proposed version of this bill, that number would go to nearly $300 million per year. That increase goes a long way, not all the way, but a long way toward making several important transportation projects a reality. Projects that otherwise might not come to fruition without a federal commitment.

In stating the amount of funding Utah receives, I do not want to give the impression that this Federal funding comes to States without them having to do their part. All of the Federal funds in this bill have a State matching component as well. States spend millions, even billions, of State dollars on transportation every year. Demand for more and better transportation alternatives in the State of Utah have become so severe that State lawmakers are now seriously considering raising the State fuel tax in order to pay for their portion of these projects. Although I hate to see any tax increases, I applaud the efforts of local lawmakers to deal with our transportation

problems with real solutions and adequate funding.

The Utah Department of Transportation—UDOT—has several aggressive highway projects around the State which have been planned for years, budgeted in the State's annual budgeting process, and now only require a federal commitment to help them proceed. I refer to projects like the ongoing reconstruction of I–15 which connects some of the most populous portions of the State from North to South. New I–15 interchanges in Ogden, Layton, and Provo are desperately needed to catch up with the large growth these cities are experiencing. Also, highway projects in Emery County on US–6, a railroad replacement bridge on US–89 in Pleasant Grove, widening of State road 92 in Lehi, and the building of the Northern Corridor in St. George are all projects which suffer terrible setbacks each time Congress cannot come together and pass a transportation reauthorization bill. And there are many, many more projects throughout the State I don't have time to name here, but that are equally as important.

On the transit side, with the recent addition of light rail and rapid bus service to several sections of downtown Salt Lake City, the citizens of Utah have grown to rely heavily on transit as a primary means of transportation. The Utah Transit Authority—UTA—has aggressive plans for projects in the pipeline that will greatly benefit the entire population of Utah. The recent announcement of the Utah Regional Commuter Rail project, which would bring rapid commuter rail service from as far away as Ogden all the way down to Provo, is encouraging and has many residents excited for the future of transit service around the state. As well, the expansions of the light rail lines from downtown Salt Lake to the airport and South Jordan are highly supported by commuters.

UTA receives $70 million to $80 million per year from Federal transit funding projects which not only provide financing for large portions of the light rail and commuter rail projects, but also provide statewide bus service and improvements to a majority of the State's population. Intermodal hubs, intelligent transportation systems, and other advances have forever improved the ease and convenience of commuting in the State of Utah and these programs depend heavily on the transportation reauthorization bill stalled in Congress. Extensions of current law, which have been going on for over a year now, get us nowhere closer to funding these important projects. The size and scope of these projects are so large that they require a long term commitment from the Federal Transit Administration—FTA—in order to get started. However, in the absence of congressional approval of a full six-year bill, the FTA is unable to make the long-term commitments required for local transit authorities to go out and secure their funding. This leaves transit projects in an eternal holding pattern, waiting for someone to commit to their future. This is unacceptable and a terrible way to address the ever growing commuting needs of citizens.

One aspect of this bill that is extremely important to citizens around the State of Utah is the fact that much of the funding for transportation safety and bike path projects comes from Federal sources. The State of Utah combines several million dollars a year with the Federal money provided by this bill to build safer crosswalks, walking bridges, bike paths, and railroad crossings throughout the State. These projects save lives and make enjoying the outdoors a safer activity. Without a Federal commitment to safety and outdoor recreation, these projects would certainly be lost in the difficult budgetary times States are facing.

This past February, when the Senate Finance Committee was considering the ''pay for'' sections of this bill, we faced a daunting task. How do you provide a substantial increase in transportation funding in the face of shrinking fuel tax revenues, without raising taxes or increasing the deficit? This is a difficult question and one the members of the Finance Committee had to deal with in very short order. However, to Senator GRASSLEY's credit, we found a way to provide the substantial increase. It was not easy. There were a lot of tough decisions we had to make. Many ingenious methods were used to increase revenues coming into the Highway Trust Fund, like cracking down on fraud and covering the cost of fuel tax credits currently in the tax code. But when all was said and done, we did it. We provided a 20 percent increase to transportation funding and we didn't raise fuel taxes or create a large deficit that future generations will have to pay off. Was it a sustainable fix that we will be able to deploy every six-years to keep the highway trust fund afloat? No, only a fuel tax increase or a large upswing in the demand for fuel will do that. But, was it a good six-year fix for a difficult problem that was already months overdue? Yes, I believe it was a good short-term fix. In short, the bill was paid for.

As I stated before, the work to reauthorize Federal transportation funding began some two-years ago when aides met to discuss the general structure of a bill. I cannot believe that the State of Utah is the only State which depends heavily on Federal transportation funding to keep up with the demands of maintaining an adequate infrastructure.

Therefore, it simply puzzles me as to why we have not been able to negotiate an acceptable bill in a two-year period. As a conferee appointed to negotiate a final bill, I can tell you first hand, that some Congressional leaders have tried very hard to come to agreement on the specifics of a bill. The efforts of Chairman INHOFE have been extraordinary. He has worked tirelessly to find compromise with leaders who appear unyielding in their particular criticisms of the bill. He has shown his willingness to compromise on his own bill and work with others. I know he does not want to pass a bill with lower funding amounts than the Senate bill, but despite that belief, I applaud him for his willingness to compromise and work toward a productive solution.

As Chairman INHOFE, I have indicated my willingness to compromise on many points in order to get a bill moving. I have made calls to colleagues, I have asked those who have indicated their unwillingness to move to please join the effort and move a bill forward. I have done my part for the citizens of Utah and will continue to do all I can.

More contentious bills than this get negotiated and passed by both houses every year. I know money is tight right now. I know we would all like to see the funding formulas be more favorable for our home States. I know each of us would like to have more funding for our home States than we currently do. But I call on each of my colleagues on both sides of the aisle to please put down your arguments and get back to the negotiating table and finish the transportation reauthorization bill before year's end. Time is short and I realize we must pass a temporary extension bill in order to keep some Federal highway funds flowing. However, I encourage my colleagues to take advantage of the remaining days left in the 108th Congress and come together to pass one of the most important bills before Congress this year. Successful passage of the transportation reauthorization bill will have positive, long-lasting effects on each and every State and I implore my colleagues not to let this opportunity pass.

Frankly, I am disappointed that we have failed to produce a six-year transportation reauthorization bill which fully funds the highway, transit, and safety programs for our States. As I mentioned earlier, the temporary extensions we have been using do not adequately address the transportation needs or our citizens. Temporary extensions frustrate the planning of these large projects, significantly delay the delivery, and make it impossible for States to raise the money necessary to fund their portions of the projects. Capital markets turn a deaf ear to project specific financing when there is no long-term Federal commitment. Only we can rectify this problem and I know we will find the solution. Let's do it sooner rather than later. Let's not wait for this problem to get even more out of hand. Let's do the right thing and come together with an adequately funded compromise. I pledge my efforts in this cause and hope my colleagues will do the same.

Mr. SARBANES. Mr. President, the Transportation Equity Act for the 21st Century, which authorized the Federal highway, transit, and safety programs,

expired 1 year ago today. Although both the Senate and the House have passed comprehensive, multiyear legislation to reauthorize those programs, a conference agreement still has not been worked out. As a result, today the Senate is passing an 8-month extension, the sixth short-term extension since TEA–21 expired. The inherent uncertainty of short-term extensions has made it difficult for State and local governments and transit agencies to make decisions regarding construction, maintenance, and operations.

I want to speak for a moment about the transit program, which falls under the jurisdiction of the Senate Banking Committee. In the Banking Committee's reauthorization hearings, we heard extensive testimony on the critical role of transit in reducing congestion, strengthening our national economy, and improving our quality of life. Transit ridership is at record levels, a testament to Americans' growing need for safe, reliable transportation choices. The same can be said for the other modes as well: demand is increasing along our entire transportation network.

Increased investment is essential if we are to keep up with this demand. The U.S. Department of Transportation has estimated that an average of $127 billion per year is needed over the next two decades to maintain and improve the condition of our highways, bridges, and transit systems. Other estimates show an even greater need. I believe that failure to make the needed investment will result in the continued deterioration of our existing infrastructure, threatening our future mobility and economic strength. Such investment would also have a positive impact in the near term: according to the U.S. Chamber of Commerce, each $1 billion invested in transportation infrastructure creates 47,500 jobs.

In an effort to begin addressing these needs, the Banking Committee passed a reauthorization of the Federal transit program in February of this year. That bill authorized $56.5 billion over 6 years for transit, a substantial increase over TEA–21. As a result of Banking Committee Chairman SHELBY's leadership in developing that piece of legislation, the Federal Public Transportation Act of 2004 was reported out of the Banking Committee unanimously. The Banking Committee bill was incorporated into S. 1072, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act, a 6-year multimodal reauthorization bill, which passed through the Senate with overwhelming bipartisan support.

Notwithstanding the passage in both the Senate and the House of reauthorization bills calling for substantially increased investment, the administration has not been willing to support the kind of investment needed to meet our pressing transit and highway needs. Without a serious commitment from the administration to make such investments, it has been impossible to move forward in the conference process.

Until that process is completed, it is essential that our States and local communities be able to continue to operate and maintain our Nation's roads, bridges, and transit systems. The legislation considered by the Senate today would allow Federal assistance to continue through May 31, 2005, and provides that once a multiyear reauthorization bill is completed, the budgetary firewalls protecting highway and transit spending will be extended around the total amounts authorized for fiscal year 2005 in that multiyear bill. I hope that in the next 8 months the Administration will work cooperatively with the Congress to produce a comprehensive reauthorization bill that will provide the needed resources to address the Nation's urgent transportation needs.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

Mr. REID. Mr. President, this could not have been done without Senator BYRD and Senator STEVENS. I have no objection.

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

The bill (H.R. 5183) was read the third time and passed.

MEASURES READ THE FIRST TIME—H.R. 4596 AND H.R. 4606

Mr. INHOFE. Mr. President, I understand there are two bills at the desk, and I ask for their first reading, en bloc.

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

The legislative clerk read as follows:

A bill (H.R. 4596) to amend Public Law 97–435 to extend the authorization for the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to the Eastern Washington University until December 31, 2009.

A bill (H.R. 4606) to authorize the Secretary of the Interior, acting through the Bureau of Reclamation and in coordination with other Federal, State, and local government agencies, to participate in the funding and implementation of a balanced, long-term groundwater remediation program in California, and for other purposes.

Mr. INHOFE. Mr. President, I ask for its second reading and, in order to place the bills on the calendar under the provisions of rule XIV, I object to my own request, en bloc.

The PRESIDING OFFICER. The bills will have their second reading on the next legislative day.

MEASURE PLACED ON THE CALENDAR—S. 2866

Mr. INHOFE. Mr. President, I understand that there is a bill at the desk and due for its second reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the second time.

The legislative clerk read as follows:

A bill (S. 2866) to amend the Farm Security and Rural Investment Act of 2002 to clarify the authority of the Secretary of Agriculture and the Commodity Credit Corporation to enter into memorandums of understanding with a State regarding the collection of approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans.

Mr. INHOFE. In order to place the bill on the calendar under the provisions of rule XIV, I object to further proceedings.

The PRESIDING OFFICER. The objection having been heard, the bill will be placed on the calendar.

AMENDMENT TO SAFE DRINKING WATER ACT

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 502, H.R. 2771.

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

The legislative clerk read as follows:

A bill (H.R. 2771) to amend the Safe Drinking Water Act to reauthorize the New York City Watershed Protection Program.

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

Mr. INHOFE. I ask unanimous consent that the bill be read the third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating thereto be printed in the RECORD, without further intervening or action or debate.

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

The bill (H.R. 2771) was read the third time and passed.

LIMITATIONS AND EXTENSION FOR CERTAIN COASTAL WETLAND CONSERVATION PROJECTS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 670, S. 2495.

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

The legislative clerk read as follows:

A bill (S. 2495) to strike limitations on funding and extend the period of authorization for certain coastal wetland conservation projects.

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

Mr. INHOFE. I ask unanimous consent that the bill be read a third time and passed; the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 2495) was read the third time and passed, as follows:

S. 2495

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

SECTION 1. COASTAL WETLAND CONSERVATION PROJECT FUNDING.

(a) FUNDING.—Section 306 of the Coastal Wetlands Planning, Protection, and Restoration Act (16 U.S.C. 3955) is amended—

(1) in subsection (a), by striking '', not to exceed $70,000,000,'';

(2) in subsection (b), by striking '', not to exceed $15,000,000''; and

(3) in subsection (c), by striking '', not to exceed $15,000,000,''.

(b) PERIOD OF AUTHORIZATION.—Section 4(a) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(a)) is amended in the second sentence by striking ''2009'' and inserting ''2019''.

AMENDING FISH AND WILDLIFE ACT OF 1956

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 673, H.R. 2408.

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

The legislative clerk read as follows:

A bill (H.R. 2408) to amend the Fish and Wildlife Act of 1956 to reauthorize volunteer programs and community partnerships for national wildlife refuges, and for other purposes.

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

Mr. INHOFE. I ask unanimous consent that the bill be read a third time and passed; the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 2408) was read the third time and passed.

IMPROVING ACCESS TO ASSISTIVE TECHNOLOGY FOR INDIVIDUALS WITH DISABILITIES ACT OF 2004

Mr. INHOFE. Mr. President, I ask unanimous consent that the HELP Committee be discharged from further consideration of H.R. 4278, the assistive technology bill, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4278) to amend the Assistive Technology Act of 1998 to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes.

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

Mr. GREGG. Mr. President, today, I join my colleague, the Senator from Iowa, Mr. HARKINS, and other Members, in seeking final passage of the Assistive Technology Act of 2004.

Senator HARKIN and I were determined to make the reauthorization of this piece of legislation a bipartisan process from the beginning. We have worked closely with the House of Representatives, Departments of Education, Labor, and Commerce, and the Small Business Administration as well as the, business, and research and development communities, the Assistive Technology Act Projects, the Alternative Financing Programs, and the disability community. Together we have successfully crafted a bipartisan and bicameral bill that we are all proud of. This bill follows the administration's lead, and the goals that President Bush set forth in the New Freedom Initiative. We are confident that the bill will be overwhelmingly supported by the President and increase access to assistive technologies for thousands of individuals with disabilities. I am also submitting several letters of support for the bill, from various groups, for the RECORD.

On February 1, 2001, President Bush announced the New Freedom Initiative—a comprehensive program to promote the full participation of people with disabilities in all areas of society by expanding education and employment opportunities, promoting increased access into daily community life, and increasing access to assistive and universally designed technologies. By the Senate finally naming conferees for the Individuals with Disabilities Education Act earlier this month, and by seeking passage of the Assistive Technology Act of 2004 today, we are helping the President fulfill America's promise of ''tearing down the barriers to equality that face many of the 54 million Americans with disabilities.''

One quarter of the President's New Freedom Initiative focuses on technology, and the technology objective is comprised of two key components.

The first is to expand Federal investment in assistive technology research and development by increasing the budgets of the Rehabilitative Engineering Research Centers' for assistive technologies, creating a new fund to help bring assistive technologies to market, and better coordinate the Federal effort in prioritizing immediate assistive and universally designed technology needs in the disability community.

The second is to enhance access to assistive technology by reducing costs associated with purchasing assistive technology and funding for low-interest loan programs to purchase assistive technologies.

The Assistive Technology Act of 2004 before us today is designed to strengthen and build upon these two components. Our efforts focus on enhancing access to technology, reducing the costs associated with purchasing such devices, and increasing technical assistance to entities that serve students with disabilities that receive transition services, adults with disabilities maintaining or transitioning to community living and to employers. Specifically, we accomplish these goals by: reducing bureaucracy; fostering private/public sector relationships; and coordinating Federal initiatives.

Current law focuses on system change activities, and providing information and referral services to people with disabilities and their families. Systems change efforts and information and referral services are important, as people are being born with or acquiring disabilities daily. However, according to several Federal agencies, an individual with a disability may be considered eligible for, and could benefit from, more than 20 Federal programs that directly or indirectly provide assistive technology. Additionally, there are over 25 Federal laws on the financing of assistive technology, all of which impacts local access to such technology.

Considering the number of Federal and State laws that a person has to navigate in order to access services, how long will it take for systems change efforts to remove barriers for accessing assistive technologies for a person with a disability living in Lincoln, NH? Systems change efforts, while worthwhile, do not immediately impact and help a person with a disability obtain assistive technology that he or she may need today. Therefore, this bill modifies the current list of authorized activities by expanding the authority of the State Assistive Technology Act projects to increase the ability of persons with disabilities to experience or obtain assistive technology. Our bill provides the State projects with a tangible set of activities, yet at the same time provides State flexibility to address emerging State needs.

Under this bill, States will provide citizens with access to device loan, reutilization, and financing programs, and equipment demonstration centers by developing such programs, or collaborating with other entities in the State currently operating such programs. In public forums that were held with the disability community, we consistently heard about the abandonment of equipment by persons with disabilities simply because the purchaser did not have an opportunity to try it out or see it demonstrated prior to purchasing the devise. The purpose of device loan and reutilization programs, and equipment demonstration centers is to provide individuals with disabilities the opportunity to receive proper assessments and evaluations for assistive technology, test and obtain information about various devices, and borrow devices and equipment before it is purchased. The financing programs provide access to low interest loans allowing an individual to purchase the device for him or herself or a family member, without having to wait for, rely on, or navigate through the red tape created by our bureaucratic Government systems. Each of these new requirements will help make the most of limited public resources in an environment that emphasizes consumer choice in and control of assistive technology services and funding.

Another major theme of this reauthorization is the reduction of costs associated with assistive technologies and to enhance research and development opportunities in this area. In December of 2003, we began meeting with individuals within the disability community, the State Assistive Technology Act projects, large and small

technology companies, trade associations, and research, development and marketing entities to learn about costs associated with developing assistive technology, and what could be done within this reauthorization to assist with this issue. We learned that many companies, most of which are small businesses, that produce assistive technologies develop products that benefit people that have a specific disability, or a low incidence disability, such as a visual impairment, a hearing loss, or a significant cognitive impairment. Because of the limited number of people that can benefit from these valuable and life-altering devices, the cost of the product remains high. Furthermore, the costs associated with creating a device are high. On the other side, prices for such devices are so expensive that people that need them cannot afford to buy them, and often go without, therefore creating a vicious cycle.

We also learned that numerous companies have product ideas that are ''on the drawing board,'' but the company does not have the funds necessary to develop products and send them to market in a timely fashion. Additionally, we learned that industry has not created their own standards to which assistive technology should be designed. As an example, companies create products that have their own operating systems and/or ports. This is a benefit for the proprietor, as no one else knows exactly what is in the operating system code, no one else can modify it, and people have to purchase the proprietors cord or other item to go with the device. The downside is that an individual with multiple pieces of technology cannot be assured that the various products he or she has can or will work together. Using a Braille Notetaker, for example, the notetaker does not use standard software, and therefore cannot be connected to a computer using an ordinary, over-the-counter cable. Instead, the user must buy the cord separately or purchase additional software, often leaving people unable to work using versions of software that their colleagues use; all of which increases the number of dollars the consumer must spend in order to function in today's society.

To address these concerns, the bill strengthens relationships between federally funded programs, the disability community, private-sector employers, and assistive technology vendors and researchers. It encourages market-based solutions and approaches to developing standards and increasing the number of products and the speed in which products go to market. This will, in-turn, make assistive technologies more affordable. The bill authorizes the Office of Special Education and Rehabilitation Services at the Department of Education to make grants available to for-profit and nonprofit entities resulting in two specific results. The first grant promotes the development of new or improved commercially available assistive technologies that are quick to reach the consumer market and easier for individuals with disabilities to learn to use, customize, fix or update. The second is to encourage the development of innovative and efficient technical practices and strategies for assistive technology products so that they will more reliably interact with the latest and future mainstream information technology, telecommunications products, and other assistive technology such as computer software and hardware.

The final major theme of this reauthorization is providing technical assistance to entities that serve students with disabilities that receive transition services, adults with disabilities maintaining or transitioning to community living, and to employers. We do not want, nor expect States to duplicate programs by creating additional financial loan, equipment loan, reutilization programs and demonstration centers for these populations. That would be a foolish use of federal dollars and would be in violation of a duplication clause in the bill. Our intent is for the State assistive technology projects to inform these specific groups about the beneficial aspects of assistive technology.

The bill accomplishes this task by strengthening relationships between federally funded programs, such as the Assistive Technology Act projects, and private-sector employers by directing the Office of Special Education and Rehabilitation Services at the Department of Education to make a grant available to for-profit and nonprofit entities to enhance public/private partnerships. This grant opportunity supports the development of public service announcements, which can be modified for regional use, to reach out to small businesses, the aging population, and people with disabilities about the benefits of assistive technology.

On July 23 of this year, the U.S. Access Board issued its first comprehensive revision of the Americans with Disabilities Act Accessibility Guidelines, ADAAG, since publishing the original ADAAG in 1991. Among other things, the new ADAAG contains changes to the requirements for employee work areas that will affect many employers once these requirements are issued as regulations by the Department of Justice. Many employers are not aware of the extent to which the Americans with Disabilities Act may require them to make their workplaces accessible. The newly issued ADA Accessibility Guidelines have toughened these requirements, making it more important than ever for employers to know what their obligations are, and to plan accordingly. This bill aggressively engages businesses, especially small businesses, by providing them with greater access to technical assistance and technology so that they can accommodate employees with disabilities and adhere to ADAAG. Additionally, we place an emphasis on the State projects to provide technical assistance that meets the needs of aging workers that are acquiring disabilities and who may need assistive technology to maintain their current level of productivity.

In developing this bill, we have learned from the progressive thinking of the President and the resourcefulness of our Federal agencies and have taken measures to complement their actions. During the Bush administration, funding for special education has increased by more than $3.7 billion for the Part B State Grants program. In fiscal year 2004, nearly $10.1 billion is available for this program, which represents an increase of 59 percent since 2001. Additionally, the Senate version of the Individuals with Disabilities Education Act promotes the involvement of the State vocational rehabilitation system with students with disabilities while still in secondary school. Title IV of the Workforce Investment Act, the ''Rehabilitation Act,'' which passed the Senate in November of last year contains similar conforming language.

In 1999, the Supreme Court handed down the Olmstead decision, which affirmed the right of individuals with disabilities to live in the community, rather than in institutions. However, it was not until President Bush was sworn into office that that decision was implemented on the Federal level. President Bush realized that making the promise of full integration a reality for people with disabilities does not only mean changing existing practices that favor institutionalization over community-based treatment. It also means providing the affordable housing, transportation, and access to assistive technology and State and local government programs and activities that make community life possible. On July 18, 2001, President Bush issued Executive Order 13217, requiring coordination among numerous Federal agencies that administer programs affecting access to the community for people with disabilities of all ages.

The Executive Order has prompted various branches of the Federal Government to make disability issues a priority. In the fiscal year 2001 Department of Labor appropriation, Congress approved an Office of Disability Employment Policy, ODEP, to be headed by an Assistant Secretary. ODEP's mission is to provide leadership to increase employment opportunities for adults and youth with disabilities. The Secretary of Health and Human Services created the Office of Disability in October 2002. The Director of the Office reports to the Secretary and serves as an advisor on HHS activities relating to disabilities. The Office on Disability oversees the implementation and coordination of disability programs, policies and special initiatives for 54 million persons with disabilities. In July of 2003, the Department of Commerce unveiled an initiative to support the development of assistive technologies and to promote the U.S. assistive technology industry.

Moreover, in December of 2003, leaders from the Department of Labor, DOL, and the Small Business Administration, SBA, signed a Strategic Alliance Memo. This document formalized an agreement between the two entities to implement a coordinated, interagency initiative to improve opportunities for people with disabilities to be employed by small businesses, for people acquiring disabilities due to the aging process and wanting to maintain employment, or for people with disabilities to become small business owners. Finally, a little over 6 weeks ago, the Rehabilitation Services Administration at the Department of Education hosted a National Employment Conference. The conference focused on State vocational rehabilitation staff creating and maintaining employer development, business relations, large-scale job placement, and developing of vocational rehabilitation's national network that provides qualified job candidates and employment services to business.

Individuals with disabilities were not a priority in a Presidential administration's domestic policy goals and objects since 1993. This changed when President Bush became President of the United States in 2001, and he signed the Olmstead Executive Order and announced the New Freedom Initiative. The current administration recognizes and believes in the full participation of people with disabilities in all areas of society. This belief has been put into action in numerous ways that I have previously explained. Through this bill, Congress is continuing and enhancing the administration's efforts by increasing access to assistive and universally designed technologies, expanding educational and employment opportunities, promoting increased access into daily community life, and helping members of this misunderstood and underutilized group of citizens achieve and succeed.

Although this reauthorization focuses on three major objectives, the bill takes an important step forward by establishing a grant to the American Indian Consortium for a Protection and Advocacy for Assistive Technology program, PAAT. The Native American Protection & Advocacy Project was established in 1994 to carry out protection and advocacy system programs. The Consortium encompasses 25,351 square miles in Arizona, New Mexico, and Utah and it provides legal representation to Native Americans with disabilities and serves the Navajo Nation, the Hopi Nation and five smaller tribes. We were pleased to make some modifications to the PAAT program as it is a major force in ensuring that children and adults with disabilities can get access to critically needed assistive technology in a variety of settings—school, home, and at work.

Additionally, we stabilized funding for the State programs by supporting State efforts to improve the provision of assistive technology for individuals with disabilities. To ensure that the Federal commitment to independent living and the full participation of individuals with disabilities in society guaranteed through the President's New Freedom Initiative is upheld, the bill removes the sunset provision in the 1998 Act, therefore creating a typical reauthorization cycle. The bill also sets a minimum State allotment of $410,000 per year in order to offset the costs for the additional requirements placed on States to maintain the comprehensive Statewide programs of technology-related assistance for individuals with disabilities of all ages. However, Congress expects States to take ownership of and expand upon the comprehensive Statewide programs of technology-related assistance.

I thank Senator HARKIN, and his staff, particularly Mary Giliberti, for their hard work and dedication in putting together a bipartisan bill that will assist thousands of individuals with disabilities access services and devices that they so desperately need. Next, I would also like to thank my staff, Denzel McGuire and Aaron Bishop, for their hard work in helping put together a bipartisan and bicameral bill. I also thank Senators ROBERTS, DEWINE, WARNER, ENSIGN, ENZI, KENNEDY, REED, MCCAIN, and SPECTER, and their staff members, Jennifer Swenson, Mary Beth Luna, John Robinson, Lindsay Lovlien, Scott Fleming, Michelle Dirst, Connie Garner, Kent Mitchell, Elyse Wasch, Seth Gerson, Ken Lasala, Mark Laisch, and Jennifer Castagna for their tireless effort through this bipartisan process. Next, I would like to thank Congressmen BOEHNER, and KILDEE, and their respective staff, David Cleary and Alex Nock for their willingness ability to negotiate a bipartisan and bicameral bill that will affect the lives of thousands of individuals with disabilities.

Additionally, I thank the various entities that provided Senate staff with invaluable technical assistance. This includes: Liz King, assistant council for the Senate's Office of Legislative Counsel for working with our staff and drafting this legislation, and the research of Sidath Panangala, policy analyst for Congressional Record Service. I also thank members of various Federal Departments that were instrumental in providing us technical assistance while putting this bill together. From the Department of Education: Dr. Troy Justesen, the Assistant Secretary of the Office of Special Education and Rehabilitative Services, OSERS, at the Department of Education, and Carol Cichoswski, and Wava Gregory staff of the Budget Office, and Eric Shulz in Office of Legislation and Congressional Affairs. From the Department of Commerce: Phillip J. Bond, Under Secretary of Commerce for Technology, Ben Wu, Deputy Under Secretary of Commerce for Technology, and Angela Ewell-Madison, Director of the Office of Congressional Affairs. From the Department of Labor: W. Roy Grizzard, Jr., Ed.D., Assistant Secretary of the Office for Disability Employment Policy at the Department of Labor, his chief of staff, J. Kim Cook, Brian Parsons, supervisory policy advisor, and Blake Hanlon, Office of Congressional and Intergovernmental Affairs. Finally, I thank the fine team at the Small Business Administration: Porter Montgomery, associate administrator for policy and planning, Geoff Green, senior analyst, and Michael Berkholtz, assistant administrator for congressional affairs.

Finally, I thank the State Assistive Technology Act projects, and especially the New Hampshire Technology Partnership Project, for providing us with information as we developed this bill. Additionally, I thank the research and development industry, businesses and employers, service providers, and the various and multiple members of the disability community that worked tirelessly, helping us develop an excellent piece of legislation.

Mr. President, I look forward to the final passage of this bill.

I ask unanimous consent letters of support for the bill be printed in the RECORD.

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

SEPTEMBER 30, 2004.

Hon. JUDD GREGG,
Chairman, Senate Committee on Health, Education, Labor and Pensions, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN GREGG: On behalf of Microsoft Corporation, I am writing in strong support of legislation at the desk, H.R. 4278, which would reauthorize the Assistive Technology (AT) Act of 1998. The bill would provide critical federal funding for state grant programs that increase access to assistive and accessible technology and related services. The AT Act expires today and without enactment of the reauthorization bill, access to assistive technology for Americans with disabilities could be severely compromised.

Attached is an op-ed piece that appeared in The Hill on July 6, 2004 that discusses the importance of the reauthorization legislation. We urge Congress to act today.

Sincerely,

LAURA RUBY,
Regulatory & Industry Affairs, Microsoft—Accessible Technology Group.

Attachment.

GIVE AMERICA'S DISABLED THE TECHNOLOGY THEY NEED

(By Laura Ruby)

Will America keep its promise to provide equal access to information, education and employment to millions of people with disabilities? If so, then Congress must act quickly to reauthorize the Assistive Technology (AT) Act, which provides federal funding for state grant programs that increase access to assistive and accessible technology and related services.

Ensuring accessibility for people with disabilities is not just a matter of curb cuts, ramps and elevators to eliminate architectural barriers to public buildings and places of employment. Today, it is just as important to provide technology that enables people with disabilities to use personal computers and the Internet, such as devices that read computer text aloud to people who are blind or enable people who can't move their

arms to type and issue computer commands using only their breath or eye movements.

Assistive and accessible technology (AT) can help people of all abilities realize their full potential, but for people with disabilities there is no middle ground. According to the National Council on Disability, ''For Americans without disabilities, technology makes things easier. For Americans with disabilities, technology makes things possible.'' The goal of the AT Act is to ensure that people have access to the technology they need.

On June 23, the Senate, led by Sens. Judd Gregg (R–N.H.) and Tom Harkin (D–Iowa), introduced its bill S. 2595 to reauthorize the AT Act. Earlier this year, Reps. Howard McKeon (R–Calif.), John Boehner (R–Ohio) and Dale Kildee (D–Mich.) shepherded the House bill for AT Act reauthorization (H.R. 4278) through floor passage. The Senate and House must now work together to ensure reauthorization of the act before the end of the current session.

Both bills would strengthen state AT programs. These programs and services are critical, because they ensure technology will be available where people need it—in schools, on the job and in their communities. The AT Act also funds research and development projects, information-system improvements, loan and reutilization programs, and demonstrations that teach people what kind of AT devices are available and how to use them.

Critics may argue that after 15 years of federal investment in this program, people who need assistive technology products and services—along with service providers, school personnel, and employers should already be aware of them. The population that needs AT is not static, however, and it is growing.

A 2003 research study commissioned by Microsoft and conducted by Forrester Data found that 57 percent of working-age computer users could benefit from accessible technology. As the U.S. work force continues to age, the need for AT as a mainstream business resource will increase even more. By 2010, more than half the U.S. population will be 45 or older, age-related impairments will affect more people, and employers will need resources to help workers maintain peak performance.

As the need for AT increases, it will be vital to establish a seamless network of resources and training that can meet people's evolving needs at every stage of life and ensure that all Americans have the help they need with education, employment and independent living. The AT Act helps to do just that by aligning its priorities and provisions with those set forth in other federal legislation, including the Individuals with Disabilities Education Act, the Workforce Investment Act and the Americans with Disabilities integration mandate in Olmstead.

The AT Act will expire on Sept. 30. Without enactment of a reauthorization bill, access to assistive technology for Americans with disabilities could be severely compromised.

Congress now has a chance to remedy this situation, so that Americans with disabilities will know that the services they need will continue to support them in their efforts to work, learn and participate in their communities.

The Senate and House should quickly negotiate a compromise bill and send it to the president for signature. As we approach the 14th anniversary of the Americans with Disabilities Act—signed into law by the first President Bush—Americans need to know our representatives in Congress will not turn their backs on citizens with disabilities. By putting this issue above politics, and re-authorizing the AT Act this year, Congress can deliver on America's promise.

SOCIETY FOR
HUMAN RESOURCE MANAGEMENT,
Alexandria, VA, September 30, 2004.

Hon. JUDD GREGG,
U.S. Senate, Chairman, Senate Health, Education, Labor, and Pensions Committee, Russell Senate Office Building, Washington, DC.

DEAR CHAIRMAN GREGG: On behalf of the more than 190,000 human resource professionals of the Society for Human Resource Management (SHRM), I am writing to express our support and enthusiastic endorsement of H.R. 4278, the Improving Access to Assistive Technology (AT) for Individuals with Disabilities Act of 2004. SHRM implores the U.S. Senate to swiftly pass this legislation which will re-authorize this vitally important program.

The human resource professional is the architect of fair policies and practices ensuring a fair and equitable employment process and workplace. Human resource professionals also play a critical role in responding to requests for workplace accommodations for employees with disabilities. If enacted, H.R. 4278 will help human resource professionals and their organizations seek sound solutions in accommodating prospective and current employees with assistive technology devices. Programs such as these support the creation and promotion of workplace diversity and represent a win-win situation for employers and employees alike. SHRM values diversity as an investment in business excellence. We believe that the workplace environment promotes the inclusion of individual similarities and differences that enhance efficiency and success.

Employment rates of persons with disabilities have always been lower than those of individuals without disabilities. H.R. 4278 authorizes federal funds to provide states, and their respective AT programs, with federal block grants that support activities that provide assistive technology devices to employees with disabilities. SHRM believes that reauthorization of the AT programs represents an important continued commitment to ensure that people with disabilities have access to technology that assists them in seeking and gaining full employment, participation, and accommodation in the workplace.

In addition, H.R. 4278 makes several program improvements that build upon current state activities. For example, the legislation would create a competitive grant for development of a national public awareness toolkit. The goal of the national toolkit is to provide a resource for each state project to expand public awareness of the AT program to targeted individuals and entities such as local media representatives, employer groups, and employee organizations. SHRM believes this provision of H.R. 4278 is of vital importance because it will serve as a tool to reach across broader communities to provide information and resources on how to access the state programs and their various benefits.

H.R. 4278 also establishes grants for research, development and evaluation, as well as alternative financing systems. The first program provides federal and state governments the opportunity to gain access to cutting edge research that analyzes the effectiveness of assistive technology devices and the state projects that administer related AT programs. The development of alternative financing systems would give states flexibility in offering competitive device loan programs, such as: revolving loan funds; loan guarantees or insurance programs; purchase, lease, or acquisition programs; and low interest loan funds. This allows the state AT projects to offer different avenues to gain access to AT devices, which affords the disability community choices in determining which AT device is most effective for their needs. These programs are crucial tools for human resource professionals in meeting the needs of employees with disabilities in the workforce.

HR professionals will continue to play a critical role in the development and execution of workplace policies and procedures in our nation's workplaces. It is vitally important that the federal government enact legislative proposals such as H.R. 4278 that contribute to and promote the successful employment of people with disabilities. Once again, I would like to underscore our strong support for H.R. 4278 and urge quick action by this body on this important measure.

Sincerely,

KATHRON COMPTON,
Chief External Affairs Officer.

THE ARC OF THE UNITED STATES,
Washington, DC, September 30, 2004.

Hon. JUDD GREGG,
Chairman, Senate HELP Committee,
U.S. Senate, Washington, DC.
Hon. EDWARD KENNEDY,
Ranking Member, Senate HELP Committee,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN GREGG AND SENATOR KENNEDY: The Arc of the United States, the nation's largest national organization representing children and adults with cognitive and other developmental disabilities, would like to thank you for your remarkable bipartisan work on HR 4278, the reauthorization of the Assistive Technology Act. The bill before you today makes important strides forward for the AT Act and, ultimately, for the people with cognitive and other disabilities who will be able to go to work, to school and out into their communities. Their increased access to assistive technologies will make it possible for them to participate more fully in every aspect of daily life.

The Arc appreciates the hard work that has gone into every phase of the process of developing and negotiating this vital legislation. We are especially pleased that the bill clearly delineates the authorization of appropriations so that state grants will have defined and equitable minimum allotment levels. We also appreciate the fact that the bill provides flexibility to states to design locally responsive programs while still assuring a focus on activities that will get assistive technology into the hands of the people that need it. We are pleased, as well, that the bill establishes a grant to the American Indian Consortium for a Protection and Advocacy for Assistive Technology (PAAT) program and has enhanced provisions for Research and Development efforts.

We urge you to pass HR 4278 now, and we look forward to working with you as you continue to work to ensure that the future holds nothing but enhancements of the programs and services authorized by this legislation.

Thank you for your support of people with disabilities and their families who will now see increased benefits from the vast technological advances the 21st century will bring. Thank you again for your bipartisan work and your leadership.

Sincerely,

STEVE EIDELMAN,
Executive Director.

EASTER SEALS,
OFFICE OF PUBLIC AFFAIRS,
Washington, DC, September 30, 2004.

Hon. JUDD GREGG,
Chairman, Committee on Health, Education, Labor and Pensions, U.S. Senate, Washington, DC.

DEAR SENATOR GREGG: On behalf of Easter Seals, I am writing to express our support

for passage of the Assistive Technology Act of 2004. We are pleased that we have reached this bipartisan solution to supporting the assistive technology needs of individuals with disabilities.

In order for this bill to reach its main objective, truly increasing access to assistive technology for people with disabilities, we will be working to make sure that adequate funding is provided to support all aspects of the bill, the state projects, existing strong alternative financing programs, protection and advocacy services, projects of national significance on research and development. We look forward to working with you to achieve this goal.

Thank you for your efforts to support assistive technology.

Sincerely,

JENNIFER DEXTER,
Senior Government Relations Specialist.

Mr. KENNEDY. Mr. President, I am proud to join my colleagues in support of final passage of this important bill. The Assistive Technology Act of 2004 will continue and expand the Nation's effort to improve access to assistive technology for all who need it.

Technology is one of the great equalizing forces in our society. A computer can provide a child with insight and access to a world of information they would otherwise never have, and make the ideal of the American dream a reality for many more.

For people with disabilities of all ages, technology is especially important. It can mean the difference between being immobile in the home and becoming a mobile and contributing member of their community. It can mean the difference between being paralyzed by an inability to communicate and communicating at a level previously thought impossible. Technology breaks down barriers to education, employment, health care, community living, civic participation and countless other activities of daily life that we so often take for granted. It allows people with disabilities to reach their full potential.

Since 1988, the Assistive Technology Act has funded projects in every State and territory to raise awareness about the enormous potential of such technology, give individuals an opportunity to test products, and offer low-cost options for purchasing them. Each project has a different focus, but all are providing these core services, and providing them well.

In Massachusetts, the Assistive Technology Project trains individuals with disabilities to be self-advocates. They monitor implementation of State and Federal laws, and operate an Equipment Exchange Trading Post for individuals to exchange or sell assistive technology products. They deserve great credit, and so do the other projects across the Nation.

The Assistive Technology Act of 2004 makes a commitment to continue these projects, in recognition of all the effective work they have done so far. It also asks them to refocus their efforts on the core objective of getting technology into the hands of people with disabilities. It asks them to perform device demonstrations, equipment loans, and device refurbishment, and to provide financing systems such as low-cost loan programs.

In addition to these important activities, it asks State projects to continue their work of educating people with disabilities, agencies that serve them, and employers, about the doors of opportunity that technology can open. It asks them to train personnel who work with people with disabilities to assess whether technology is needed and then how to obtain it. It asks them to integrate technology into education, employment and other service plans, and it improves coordination between agencies that serve people with disabilities.

In particular, it asks State projects to focus on a population that needs technology, but often does not get it—students under the Individuals with Disabilities Education Act in transition from school to work or continuing education. For these students, assistive technology is vitally important. It can mean the difference between living independent and productive lives when they leave school, and being left out of their community and unable to contribute. The legislation asks State projects to better facilitate access to technology for this population. It's a big task, but one I know the projects are able to handle, and it will make a world of difference for thousands of students who make the transition every year from the schoolhouse to home, college, or the workplace.

In addition to focusing the projects on new activities, we take steps to provide resources to make it happen. The act sets a minimum allotment of $410,000 for each State project. This higher minimum will give many smaller States the resources they need to expand and create quality programs. For larger States, any resources above this level will be largely dedicated to helping them meet the increased need they face. We in Congress must do everything we can to see that this legislation receives the funding we know is necessary to implement quality and effective programs State-wide.

This legislation also shifts the authority for administering, monitoring and reporting on the program to the Republican Services Administration. The projects focus on people with disabilities of all ages and on their school, work and basic health and living needs. The RSA is well-equipped to provide the kind of leadership that will allow us to effectively assess their accomplishments, and is required to partner with the Office of Special Education Programs, the National Institute on Disability Research and Rehabilitation and other Federal agencies. I am confident the projects will receive the attention and focus they deserve.

In this legislation, we also continue and expand the work of the protection and advocacy systems that have done so much over the years to make good on the promise of assistive technology.

I commend Senators JUDD GREGG and TOM HARKIN and Representatives JOHN BOEHNER, GEORGE MILLER and BUCK MCKEON for their excellent bipartisan work on this legislation. I also commend Senator JACK REED, Senator JOHN WARNER, Senator PAT ROBERTS and all of my colleagues on the Health, Education, Labor and Pensions Committee for their excellent work. Senator REED deserves special credit for his focus on improving training of local personnel and expanding research and development on new technologies.

Several staff members deserve particular thanks—Aaron Bishop with Senator GREGG, Mary Giliberti with Senator HARKIN, Elyse Wasch and Erica Swanson with Senator REED, David Cleary with Representative BOEHNER and Alex Nock with Representative MILLER. Without their hard work and the hard work of the disability advocates and project directors and staffs in the states, this legislation would not have been possible.

Mr. HARKIN. Mr. President, today the Senate will pass legislation that is critically important to individuals with disabilities and elderly Americans: the Assistive Technology Act of 2004.

I am delighted that we are completing this bill, which will also shortly be passed in the House. I want to thank Senators GREGG, KENNEDY, ROBERTS, REED, and DEWINE, and Representatives BOEHNER and MILLER, among others, for their excellent bipartisan work to get this accomplished.

Assistive technology is absolutely critical to the lives of people with disabilities. According to an NOD/Harris poll earlier this year, 35 percent of individuals with disabilities say that they would not be able to live independently or take care of themselves at home without assistive technology.

Assistive technology also opens up opportunities in education, employment and civic participation that would not otherwise be available to many individuals with disabilities.

As the National Council on Disability puts it: ''For Americans without disabilities, technology makes things easier. For Americans with disabilities, technology makes things possible.''

The bill that we are reauthorizing today builds on the successes of the Assistive Technology Act dating back to 1988. The State Assistive Technology programs have been highly effective in providing information, training, and technical assistance to a wide array of individuals, including people with disabilities, their families, educators, health care professionals and others.

Let me give you an example from my own State of Iowa. Ben Moore, owner of Moore Construction in Iowa City, learned about universal design—the practice of building homes so that people with and without disabilities can get around in them—because of the work of the Iowa Program for Assistive Technology. He went on to build a universally designed home for two Iowans with disabilities. Now he is encouraging other contractors to use universal design to build beautiful homes

that Iowans can remain in as they grow old. Given Iowa's aging population, this is very important work.

Joy Crimmins from Dubuque, IA, has benefited from the advocacy services funded through the act. She has a newly accessible bedroom and bathroom in her home because the assistive technology program provided legal advocacy to her family to get their home modified.

This wonderful work is not happening just in Iowa. The most recent data available, for Fiscal Year 2002, indicates that these programs are making a substantial difference nationally. In 2002, 92,000 equipment demonstrations were provided; 38,000 AT devices were loaned to individuals with disabilities; and more than 6,000 devices were exchanged or recycled. Also, more than 6 million dollars was loaned to individuals with disabilities so they could purchase assistive technology, ranging from a hearing device to an accessible van. The AT programs also provided timely information to Americans, answering 151,000 requests for assistance, and training more than 172,000 people.

Despite all of these successes, we recognize that there is much more to be done. The NOD/Harris poll indicates that 17 percent of individuals with disabilities still do not have the assistive technology device or equipment that they need. And the biggest barrier is cost. In this reauthorization, we emphasize programs that will improve access to assistive technology devices by providing loans, leases or other financing programs as well as recycled equipment.

While there are many important initiatives in this bill, I will highlight a few of the most significant.

First, the bill for the first time authorizes a $410,000 State minimum for each of the State projects to ensure that each state has the funds necessary to carry out the requirements of the act.

The bill also provides that the majority of the Federal funds will be spent on activities designed to provide direct access to assistive technology, including equipment loan, device reutilization, device demonstration, and financing systems.

States will continue their successful public awareness and coordination activities. States will also continue to provide technical assistance, with a new focus on individuals with disabilities who are going through transition periods and need assistive technology to be successful. This is particularly important for students with disabilities who are receiving IDEA services and transitioning to higher education, employment and independent living. It is also critical to adults with disabilities and older Americans who need help maintaining independent living or transitioning from a nursing home or institution to the community.

The Senate recently passed the Individuals with Disabilities Act, and we continue to be concerned about implementation of the ADA and the Olmstead decision. This effort aligns the Assistive Technology Act with these other initiatives.

Because individuals with disabilities still are afforded significantly fewer employment opportunities than individuals without disabilities, the bill places an emphasis on educating employers and employees. One of the projects of national significance authorized in the bill includes development of public service announcements and other means of reaching out to employers, giving them information regarding assistive technology.

The other project of national significance promotes research and development so we can have come up with assistive technologies that can open up more doors for individuals with disabilities.

This reauthorization recognizes the ongoing contribution of protection and advocacy services in making assistive technology available to individuals with disabilities. And it adds the Native American Protection and Advocacy System to those receiving funds under the act. Iowa's successful advocacy program will also be continued under this bill.

These are just a few of the many significant issues addressed in this bill. It is a very comprehensive effort, made possible by the hard work of the many stakeholders that participated.

I want to thank my colleague, Senator GREGG, and his staff, particularly Aaron Bishop and Denzel McGuire, for their excellent work on this bipartisan initiative. I also want to recognize the work of Senators KENNEDY, ROBERTS, REED and DEWINE and their staff members, Kent Mitchell, Connie Garner, Jennifer Swenson, Elyse Wasch, Erica Swanson, and MaryBeth Luna. And I'd like to recognize Congressman BOEHNER and MILLER and their staff members, David Cleary and Alex Nock, for working on this bipartisan, bicameral bill.

As part of this reauthorization process, committee staff have had extensive bipartisan briefings and met with a very wide array of stakeholders. Stakeholders also participated in work groups designed to forge consensus on many of the issues addressed in this bill. As a result, I believe we are passing a very strong bill. I want to thank the many individuals with disabilities, family members, assistive technology programs, vendors, members of the information technology industry, the financial and business community, service providers, advocates, educators and others who gave generously of their time and worked so hard on this bill.

This bill continues the tradition of bipartisan cooperation that has marked every significant disability bill that has been passed by Congress. Just as the ADA, IDEA and other bills have been bipartisan, so is this Assistive Technology Act of 2004, We can all be proud to see it enacted into law.

Mr. REED. Mr. President, I strongly support final passage of H.R. 4278, the Assistive Technology Reauthorization Act of 2004.

This important legislation, the product of bipartisan and bicameral negotiations, reauthorizes the Assistive Technology Act of 1998 and provides individuals with disabilities increased access to critical assistive technology devices and services, focusing on where they are needed most—in schools, on the job, and in the community. These devices and services afford individuals with disabilities a greater opportunity to participate in educational programs, employment prospects, and community activities and thereby, assist them in leading more full, productive, and independent lives.

As an original cosponsor of the Senate version of this bill, I am pleased that some of its provisions on training and research and development which I authored have been included in the final version of the bill before us today. The bill requires states to carry out training activities to enhance the knowledge, skills, and competencies of individuals in local settings statewide, including educators, early intervention, adult service, and health care providers, and others who work with individuals with disabilities. These provisions ensure that local communities will have trained personnel available to meet the specific assistive technology needs of individuals with disabilities.

The bill also establishes a new authority for competitive grants for research and development of new assistive technology devices and for the adaptation, maintenance, servicing and improvement of those assistive technology devices already in existence, an issue of great interest to colleges in my State. As such, among the eligible recipients for this research and development funding are institutions of higher education, including the nationally recognized University Centers for Excellence in Developmental Disabilities Education, Research, and Service and the engineering programs of such institutions. Regrettably, the compromise restricts the potential funding of this program to a small level that is not sufficient to solve the large and growing need for assistive technology devices, particularly as our population ages. This is a good start, but we must do more to help individuals with disabilities forge ahead and reach their ultimate potential, and so I hope we can grow this funding in the future.

There are other highlights as well. The bill increases the minimum allotment for each State assistive technology program to $410,000 which could mean an increase of nearly $110,000 in funding for Rhode Island as appropriations rise, and it repeals the sunset provision included in the Assistive Technology Act of 1998 so that States can continue to be eligible for funding. The bill also shifts emphasis toward getting assistive technology directly into the hands of individuals with disabilities through programs to provide

device demonstration, equipment loan, device reutilization/recycling and financing systems such as low-interest loans for the purchase or lease of assistive technology equipment.

I thank my colleagues, in particular, Chairman GREGG, Senator KENNEDY, Senator HARKIN, and their staffs, for their hard work in producing a bipartisan piece of legislation and moving it toward final passage.

A special thanks is also due to Regina Connor, the Project Director of the Rhode Island Assistive Technology Access Partnership, ATAP, which is Rhode Island's Assistive Technology Act Project, and Tony Antosh, Director of the Paul V. Sherlock Center on Disabilities, for their input and recommendations throughout the legislative process and ensuring that the act contained provisions important to Rhode Island assistive technology users, providers, and advocates.

This is significant legislation for people in Rhode Island and across the Nation, and I am pleased to support it. I look forward to the President quickly signing this bill into law which will hopefully signal a turnaround in his support for assistive technology funding to provide individuals with disabilities the increased support they need and deserve.

Mr. INHOFE. I ask unanimous consent that the substitute amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table en bloc, and any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 3943) was agreed to.

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

The bill (H.R. 4278), as amended, was read the third time and passed.

HONORING THE LIFE AND WORK OF DUKE ELLINGTON

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 501.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 501) honoring the life and work of Duke Ellington, recognizing the 30th anniversary of the Duke Ellington School of the Arts, and supporting the annual Duke Ellington Jazz Festival.

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

Mr. INHOFE. I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and any statement relating to the matter be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 501) was agreed to.

STATE JUSTICE INSTITUTE REAUTHORIZATION ACT OF 2004

Mr. INHOFE. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 2714 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2714) to reauthorize the State Justice Institute.

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

Mr. LEAHY. Mr. President, I am pleased the Senate will take up the Leahy-Hatch amendment to reauthorize the highly successful Department of Justice Bulletproof Vest Partnership Grant Program. I thank the Chairman of the Senate Judiciary Committee, Senator HATCH, for joining me on this amendment.

This amendment contains the same legislative language as the Campbell-Leahy-Hatch Bulletproof Vest Partnership Grant Act of 2003, S. 764. The Bulletproof Vest Partnership Grant Act passed the Senate by unanimous consent on July 15, 2003, and has been awaiting consideration by the House of Representatives since then.

This measure marks the third time that I have had the privilege of teaming with my friend and colleague Senator CAMPBELL to work on the Bulletproof Vest Partnership Grant Program. We authored the Bulletproof Vest Grant Partnership Act of 1998, which responded to the tragic Carl Drega shootout in 1997 on the Vermont-New Hampshire border, in which two state troopers who did not have bulletproof vests were killed. The Federal officers who responded to the scenes of the shooting spree were equipped with life-saving body armor, but the state and local law enforcement officers lacked protective vests because of the cost.

Two years later, we successfully passed the Bulletproof Vest Partnership Grant Act of 2000, and I hope we will go 3-for-3 this time around. Senator CAMPBELL brings to our effort invaluable experience in this area and during his time in the Senate he has been a leader in the area of law enforcement. As a former deputy sheriff, he knows the dangers law enforcement officers face when out on patrol. I am pleased that we have been joined in this effort by 12 other Senate cosponsors, including Senator HATCH.

Our bipartisan legislation will save the lives of law enforcement officers across the country by providing more help to State and local law enforcement agencies to purchase body armor. Since its inception in 1999, this highly successful Department of Justice program has provided law enforcement officers in 16,000 jurisdictions Nationwide with nearly 350,000 new bulletproof vests. In Vermont, 60 municipalities have been fortunate to receive to receive funding for the purchase of 1,905 vests.

The Bulletproof Vest Partnership Grant Act of 2003 will further the success of the Bulletproof Vest Partnership Grant Program by re-authorizing the program through fiscal year 2007. Our legislation would continue the Federal-State partnership by authorizing up to $50 million per year for matching grants to State and local law enforcement agencies and Indian tribes at the Department of Justice to buy body armor.

We know that body armor saves lives, but the cost has put these vests out of the reach of many of the officers who need them. This program makes it more affordable for police departments of all sizes. Few things mean more to me than when I meet Vermont police officers and they tell me that the protective vests they wear were made possible because of this program. This is the least we should do for the officers on the front lines who put themselves in danger for us every day. I want to make sure that every police officer who needs a bulletproof vest gets one.

Mr. INHOFE. I ask unanimous consent that the Leahy-Hatch amendment, which is at the desk, be agreed to, the bill as amended be read a third time and passed, the motions to reconsider be laid upon the table with no intervening action or debate, and any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 3944) was agreed to, as follows:

(Purpose: To extend the authorization of the Bulletproof Vest Partnership Grant Program)

On page 3, after line 5, add the following:

SEC. 4. LAW ENFORCEMENT ARMOR VESTS.

Section 1001(a)(23) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(23)) is amended by striking ''2004'' and inserting ''2007''.

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

ORDERS FOR FRIDAY, OCTOBER 1, 2004

Mr. INHOFE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Friday, October 1. I further ask unanimous consent that following the prayer and the 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 resume consideration of S. 2845, the intelligence reform bill.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be vitiated.

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

MEASURE PLACED ON THE CALENDER—S. RES. 360

Mr. INHOFE. I ask unanimous consent the Rules Committee be discharged from further consideration of S. Res. 360, and it be placed directly on the calendar.

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

PROGRAM

Mr. INHOFE. Mr. President, for the information of all Senators, tomorrow the Senate will resume consideration of the intelligence reform bill. As announced earlier, there will be no rollcall votes tomorrow. Senators will be here to offer and debate amendments, and any votes ordered on the amendments will be stacked to occur Monday afternoon. It is the intention of the leader to begin those rollcall votes on amendments as early as 3 p.m. on Monday, and Senators should make the appropriate scheduling considerations.

The majority leader will have more to say on this week's schedule tomorrow.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. INHOFE. 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.

There being no objection, the Senate, at 7:33 p.m., adjourned until Friday, October 1, 2004, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 30, 2004:

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. BRUCE A. CARLSON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DENNIS R. LARSEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. WILLIAM M. FRASER III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. CARROL H. CHANDLER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. STEPHEN G. WOOD

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COLONEL ROBERT A KNAUFF

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, UNITED STATES CODE, SECTION 9335:

To be brigadier general

COL. DANA H. BORN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. MARSHALL K. SABOL

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. BENJAMIN S. GRIFFIN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE SURGEON GENERAL, UNITED STATES ARMY, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 3036:

To be lieutenant general

MAJ. GEN. KEVIN C. KILEY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JAMES J. LOVELACE, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES M. DUBIK

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT T. DAIL

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DAVID F. MELCHER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. R. STEVEN WHITCOMB

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. DAVID D. MCKIERNAN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. JAMES E. ARCHER
BRIG. GEN. STEVEN P. BEST
BRIG. GEN. PETER S. COOKE
BRIG. GEN. JACK C. STULTZ

To be brigadier general

COL. NORMAN H. ANDERSSON
COL. EDWARD L. ARNTSON II
COL. MARGRIT M. FARMER
COL. GLENN J. LESNIAK
COL. ADOLPH MCQUEEN, JR.
COL. JACK F. NEVIN
COL. MAYNARD J. SANDERS
COL. GREGORY A. SCHUMACHER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL KARL R. HORST

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. DANA D. BATEY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY VETERINARY CORPS UNDER TITLE 10, U.S.C., SECTIONS 3064 AND 3084:

To be brigadier general

COL. MICHAEL B. CATES

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES N. MATTIS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. EDWARD HANLON, JR.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF ADMIRAL IN THE UNITED STATES NAVY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601 AND TITLE 50, U.S.C., SECTION 2406:

To be director, naval nuclear propulsion program

To be admiral

VICE ADM. KIRKLAND H. DONALD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. CHARLES L. MUNNS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. JAMES K. MORAN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. JOSEPH A. SESTAK, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. MARK P. FITZGERALD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. GARY ROUGHEAD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. LEWIS W. CRENSHAW, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS DEPUTY JUDGE ADVOCATE GENERAL OF THE NAVY IN THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 5149:

To be rear admiral

CAPT. BRUCE E. MACDONALD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS JUDGE ADVOCATE GENERAL OF THE NAVY IN THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 5149:

To be rear admiral

REAR ADM. JAMES E. MCPHERSON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. NORTON C. JOERG

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPTAIN GERALD R. BEAMAN
CAPTAIN MARK S. BOENSEL
CAPTAIN JOHN H. BOWLING III
CAPTAIN MARK H. BUZBY
CAPTAIN DAN W. DAVENPORT
CAPTAIN WILLIAM E. GORTNEY
CAPTAIN MICHAEL R. GROOTHOUSEN
CAPTAIN VICTOR GUILLORY
CAPTAIN CECIL E. HANEY
CAPTAIN HARRY B. HARRIS, JR.
CAPTAIN JAMES M. HART
CAPTAIN RONALD H. HENDERSON, JR.
CAPTAIN JOSEPH D. KERNAN
CAPTAIN RAYMOND M. KLEIN
CAPTAIN CHARLES J. LEIDIG, JR.
CAPTAIN ARCHER M. MACY, JR.
CAPTAIN MICHAEL K. MAHON
CAPTAIN CHARLES W. MARTOGLIO
CAPTAIN WALTER M. SKINNER
CAPTAIN SCOTT R. VANBUSKIRK
CAPTAIN MICHAEL C. VITALE
CAPTAIN RICHARD B. WREN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. CHRISTINE S. HUNTER

AIR FORCE NOMINATION OF MARJORIE B. MEDINA.
AIR FORCE NOMINATION OF HENRY LEE EINSEL, JR.
AIR FORCE NOMINATION OF ROBERT L. MUNSON.
AIR FORCE NOMINATION OF JAMES MILLER.
AIR FORCE NOMINATIONS BEGINNING MICHAEL M. HARTING AND ENDING JOEL C. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.
AIR FORCE NOMINATION OF DANA J. NELSON.
AIR FORCE NOMINATION OF WILLIAM E. LINDSEY.
AIR FORCE NOMINATION OF MARTIN S. FASS.
AIR FORCE NOMINATION OF FRANK A. POSEY.
AIR FORCE NOMINATION OF TRACEY R. * ROCKENBACH.
AIR FORCE NOMINATIONS BEGINNING SHANNON D. * HAILES AND ENDING MICHAEL F. LAMB, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
AIR FORCE NOMINATIONS BEGINNING TOMMY D. * BOUIE AND ENDING JENNIFER L. * LUCE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
AIR FORCE NOMINATIONS BEGINNING NOEL D. MONTGOMERY AND ENDING ALEXANDER V. * SERVINO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.
AIR FORCE NOMINATIONS BEGINNING KATHLEEN HARRINGTON AND ENDING PAUL E. PIROG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 21, 2004.
AIR FORCE NOMINATION OF GEORGE J. KRAKIE.
AIR FORCE NOMINATIONS BEGINNING DAVID A. LUJAN AND ENDING MICHAEL C. SCHRAMM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 21, 2004.
AIR FORCE NOMINATIONS BEGINNING DOUGLAS A. HABERMAN AND ENDING MATTHEW S. WARNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 21, 2004.
AIR FORCE NOMINATION OF MARTIN J. TOWEY.
ARMY NOMINATIONS BEGINNING JUAN H. BANKS AND ENDING LISA N. YARBROUGH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.
ARMY NOMINATIONS BEGINNING MICHAEL J. BLACHURA AND ENDING RONALD P. WELCH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
ARMY NOMINATIONS BEGINNING SCOTT A. AYRES AND ENDING GERALD I. WALTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
ARMY NOMINATIONS BEGINNING MARK A. COSGROVE AND ENDING RONNIE J. WESTMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
ARMY NOMINATIONS BEGINNING STEVEN H. BULLOCK AND ENDING JOHN M. STANG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
ARMY NOMINATIONS BEGINNING MICHAEL N. ALBERTSON AND ENDING WILLIAM S. WOESSNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
ARMY NOMINATIONS BEGINNING JOHN W. AMBERG II AND ENDING RICHARD G. ZOLLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
ARMY NOMINATIONS BEGINNING GILBERT ADAMS AND ENDING SCOTT W. ZURSCHMIT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
ARMY NOMINATIONS BEGINNING CELETHIA M. ABNER AND ENDING CHERUB I. * WILLIAMSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

ARMY NOMINATIONS BEGINNING THOMAS L. * ADAMS, JR. AND ENDING KATHRYN M. * ZAMBONICUTTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
ARMY NOMINATION OF RAYMOND L. NAWOROL.
ARMY NOMINATION OF KEITH A. GEORGE.
ARMY NOMINATION OF CURITS L. BECK.
ARMY NOMINATION OF REX A. HARRISON.
ARMY NOMINATIONS BEGINNING KEVIN HAMMOND AND ENDING MICHAEL KNIPPEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.
ARMY NOMINATIONS BEGINNING JAIME B. * ANDERSON AND ENDING JOSEPH G. * WILLIAMSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.
ARMY NOMINATIONS BEGINNING JAMES R. ANDREWS AND ENDING SHANDA M. ZUGNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.
ARMY NOMINATIONS BEGINNING MICHAEL C. AARON AND ENDING X4130, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.
ARMY NOMINATIONS BEGINNING CHRISTOPHER W. * ABBOTT AND ENDING X3181, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.
ARMY NOMINATION OF JOHN R. PELOQUIN.
MARINE CORPS NOMINATION OF JOHN T. BROWER.
MARINE CORPS NOMINATION OF JOHN M. SESSOMS.
MARINE CORPS NOMINATION OF RANDY O. CARTER.
NAVY NOMINATIONS BEGINNING ANDREW M ARCHILA AND ENDING RICHARD G ZEBER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.
NAVY NOMINATIONS BEGINNING RAY A BAILEY AND ENDING DAVID A STROUD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.
NAVY NOMINATIONS BEGINNING RAYMOND ALEXANDER AND ENDING MARK A ZIEGLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.

NAVY NOMINATIONS BEGINNING STEVEN W ASHTON AND ENDING JASON D ZEDA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.
NAVY NOMINATIONS BEGINNING TAMMERA L ACKISS AND ENDING KATHLEEN L YUHAS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.
NAVY NOMINATIONS BEGINNING IK J AHN AND ENDING SARA B ZIMMER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.
NAVY NOMINATIONS BEGINNING KERRY L ABRAMSON AND ENDING ANDRU E WALL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.
NAVY NOMINATION OF ARTHUR B. SHORT.
NAVY NOMINATION OF SCOTT DRAYTON.
NAVY NOMINATION OF CIPRIANO PINEDA, JR.
NAVY NOMINATIONS BEGINNING MICHAEL P AMSTUTZ, JR. AND ENDING JAMES J WOJTOWICZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

NAVY NOMINATIONS BEGINNING JERRY L ALEXANDER AND ENDING LORI C WORKS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
NAVY NOMINATIONS BEGINNING PATRICK L BENNETT AND ENDING ERNEST C WOODWARD, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

NAVY NOMINATIONS BEGINNING CLAUDE W ARNOLD, JR. AND ENDING STEVEN M WENDELIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

NAVY NOMINATIONS BEGINNING CHRISTOPHER L BOWEN AND ENDING WILLIAM L WOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

NAVY NOMINATIONS BEGINNING JULIE M ALFIERI AND ENDING DONNA I YACOVONI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
NAVY NOMINATIONS BEGINNING MARIANIE O BALOLONG AND ENDING KAREN M WINGEART, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
NAVY NOMINATIONS BEGINNING THOMAS G ALFORD AND ENDING KENDAL T ZAMZOW, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
NAVY NOMINATIONS BEGINNING RYAN D AARON AND ENDING DAVID G ZOOK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
NAVY NOMINATIONS BEGINNING MATTHEW WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.
NAVY NOMINATIONS BEGINNING RICHARD S ADCOOK AND ENDING JEFFREY G ZELLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.
NAVY NOMINATION OF DANIEL C. RITENBURG.
NAVY NOMINATION OF DWAYNE BANKS.
NAVY NOMINATIONS BEGINNING BILLY R. DAVIS AND ENDING WILLIAM H. SPEAKS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 21, 2004.