United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

Vol. 150 WASHINGTON, TUESDAY, SEPTEMBER 28, 2004 No. 119

Senate

The Senate met at 9:45 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

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

Let us pray.

King of our lives, in sunshine or in shadows, we belong to You. You speak to us in both our moments of joy and sadness. We hear Your whispers through our pain. You prepare the earth for harvest and Your rivers never run dry.

In an uncertain world, we can turn to You for security. Thank You for forgiving us and for chasing away our gloom. You confuse those who seek to harm us, and You shield us with Your amazing grace and love.

Continue to guide and bless our Senators. Give them a peace more profound than anything the world can offer. Use them to bless our Nation and world. Keep them from temptation and deliver them from evil, for the kingdom, the power, and the glory belong to You. 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, today we will begin a period of morning business for up to 60 minutes. The majority will control the first half of that time and the minority will control the remaining second half. Following the 1 hour of morning business, the Senate will resume the pending intelligence reform legislation.

I do once again congratulate the chairman and ranking member, Senators COLLINS and LIEBERMAN, for their opening remarks yesterday. I am pleased we are now underway on this historic bill. We had a good start yesterday. We had a number of Members participating in the debate yesterday. Three amendments were offered, and they are now pending.

It would be my hope we could continue to make progress on the bill over the course of today, continue the good progress from yesterday and dispose of a number of amendments in addition to the ones that have been offered. Thus, we can expect votes over the course of the day on the intelligence reform amendments.

As is usual on a Tuesday, we will be breaking from 12:30 to 2:15 for the weekly policy luncheons. Again, as I mentioned yesterday, as we all know, we have scheduling challenges over the course of the week during the nights, which in many ways is good because it means we absolutely must focus, beginning right up front in the morning, and work through the day to process the bill, to process amendments, and to, of course, vote.

Again, I think every evening this week there are major commitments by both caucuses and the caucuses working together. Thus, we really absolutely must continue to work aggressively over the course of the day. There are a lot of people with a whole range of amendments to offer. We have had a long time for people to both now look at the bill but also, since late July, to have Senators and their staffs address the important issues and the recommendations which were made public in late July by the 9/11 Commission and since that time through a lot of hearings during August in the Governmental Affairs Committee that had a superb markup where a number of amendments were offered, debated, and adopted.

It gave the Senators on that committee the opportunity to highlight the important issues, to dispose of a number of them, but also, I believe, to make it so on the floor, when we address amendments that are similar to and in some cases maybe even the same amendments, we can deal with those in very expeditious ways since so much groundwork has been laid.

I am going to encourage, with the leadership on both sides of the aisle, the managers to gather these amendments just as soon as possible. All 100 Senators need to recognize that we have very few days, really just a few more than a handful of days, before we depart on October 8. Although we have dealt with many of these issues over the last several days and weeks, it is critical that we see the amendments so we can plan out the next several days on the bill. I have encouraged all of our colleagues to bring those amendments to the managers today, this morning.

With that, I will close my remarks and turn to the Democratic leader either for general comments or comments on the course of the week.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

INTELLIGENCE REFORM AND SCHEDULE

Mr. DASCHLE. Mr. President, I confirm the schedule as Senator FRIST has laid it out. The majority leader has been very clear about the intent that we both have to try to finish this work as quickly yet as thoroughly as we can. I would hope that we could work on a finite list. I would hope that we could reach time agreements on amendments. This is a piece of legislation

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

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that should be familiar to all Senators. It has been out there. The committee has done very good and deliberative work on both sides. It has been one of the better demonstrations of the cooperation that we used to take for granted around here. I would hope that we could continue to show that same level of cooperation as we work through this bill.

I reiterate my strong support for what the majority leader has noted. He may have said this, and I just didn't catch it, but I know we have to take up some expiring legislation this week. We have a CR. We have a transportation bill. We have TANF. All of that has to be addressed this week as well. It is my hope that we can get agreements on those and not devote a good deal of time on the Senate floor to those and keep our focus first on 9/11 and then other agreements we could get on appropriations bills. We will work throughout the day to clarify the schedule with regard to those bills.

ENSURING A STRONG FARM CREDIT SYSTEM

Mr. DASCHLE. Mr. President, the Farm Credit System is a nationwide network of borrower-owned financial institutions consisting of four farm-credit banks, one agricultural-credit bank, and nearly 100 locally owned farm-credit associations.

These institutions were created as a result of the 1916 Farm Credit Act, whose fundamental purpose was to establish a network of government-sponsored enterprises that would provide America's farmers and ranchers with a reliable source of credit at fair and competitive interest rates.

Over the years, the Farm Credit System has provided critical credit and related services to farmers, ranchers, rural homeowners, farm-related businesses, and cooperatives, including rural utilities.

In fact, the Farm Credit System provides over $90 billion in loans to more than a half-a-million producers, agribusiness, and agricultural cooperatives. Overall, more than 25 percent of the credit needs of American agriculture are met by these important farm credit institutions.

These institutions have the unique attribute of being organized as cooperative businesses, each owned by its member-borrower stockholders, who have the right to participate in director elections and vote on issues impacting business operations.

One of the largest farm-credit institutions serving South Dakota is Farm Credit Services of America, or FCSA. FCSA also provides services in Iowa, Nebraska, and Wyoming, and it holds nearly $8 billion in assets, which is about 8 percent of the entire Farm Credit System portfolio.

On July 30, the board of FCSA approved an agreement to be acquired by the Rabobank Group, a Dutch banking giant and international farm lender.

The agreement is subject to approval by the regulatory agency which oversees these institutions—the Farm Credit Administration or FCA. It is also subject to stockholder approval and the expiration or termination of antitrust waiting periods.

Under the agreement, FCSA would become a wholly-owned subsidiary of Rabobank and would seek to exit the Farm Credit System under the termination provisions of the FCA's regulations.

FCSA has over 51,000 farmer and rancher customers—thousands of which are in my State of South Dakota.

Having spent a great deal of time in South Dakota over the past few months, I can say without any doubt that this proposed sale of one of our leading Farm Credit System institutions to a foreign bank has created a whirlwind of confusion and uncertainty.

While the tentative deal would pay producer-members $600 million in patronage, FCSA would also have to pay the Federal Government an $800 million ''exit fee,'' which is required should a member-institution pull out of the system.

The $800 million would go to the system's insurance fund. If the agreement is approved, FCSA would no longer exist.

At the same time, another banking interest—AgStar, which is also part of the Farm Credit System, and which operates out of Minnesota—has also sought to enter into a merger with FCSA.

Under AgStar's proposal, the new, merged AgStar would pay producers-owners $650 million in patronage—a full $50 million more than the Rabobank offer.

Plus, AgStar would not have to pay the $800 million termination fee that the Rabobank deal would require.

Finally, AgStar would make a commitment to provide future patronage payments to farmers and rancher-owners.

Looking solely at these figures, the Babobank offer appears questionable. But a decision like this should not be taken lightly, and more time is needed to fully analyze all the facts and determine what would be in the best interest of the producer-owners of FCSA, and in the best interest of the overall Farm Credit System.

Senator JOHNSON and I have sought to ensure that public hearings on these matters be held by both the FCA and the appropriate committees in Congress.

The FCA has said that they will hold at least one meeting or hearing. In addition, the first of what I hope could be several congressional hearings will be held by a House Agriculture Subcommittee tomorrow.

Unfortunately, the current time line under which the Farm Credit Administration must operate would require a decision within 60 days of FCSA's submission of a termination notice—a notice which could be filed as early as this week.

If the FCA approves the sale, a final vote by the FCSA shareholders could theoretically come before the end of the year, when Congress will likely be out of session.

It would be extremely difficult for the FCA to hold the public meetings or hearings that many of us think are needed, and make a thoughtful decision about the termination, within the initial 60-day time frame.

That is why, today, Senator JOHNSON and I are introducing legislation to ensure that when a Farm Credit System institution seeks to leave the system and terminate its status, the FCA will hold no less than one public meeting or hearing in each of the States in which that institution is chartered.

In this case there would be no less than one meeting or hearing in South Dakota, Iowa, Nebraska and Wyoming.

The bill would also require the FCA to wait at least six months before making a decision on the termination request by the institution—in this case, FCSA.

At best, the proposed sale of FCSA to Rabobank raises more questions than answers.

Farmers and ranchers in South Dakota and in the other impacted States fear they will have to vote on a deal before studying it and having all the appropriate information they need.

And the Farm Credit Administration, which is not a large agency, is at risk of being overburdened by an unrealistic time line.

A decision to leave the system is really monumental in the world of rural credit, and it could have a huge impact on rural America.

The Farm Credit System has served our Nation's rural communities exceedingly well for nearly 90 years.

Before any action is taken that may jeopardize that impressive record, we need to ensure that farmers, ranchers, and rural residents, as well as members of the FCA, have the time they need to analyze this profoundly important decision and reach the right conclusion.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. SMITH). Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first 30 minutes under the control of the majority leader or his designee and the final 30 minutes under the control of the Democratic leader or his designee.

The PRESIDING OFFICER. The majority leader is recognized.

INTELLIGENCE REFORM

Mr. FRIST. Mr. President, on leader time—and we will come right into morning business shortly—I want to continue on the intelligence reform bill that is underway and make a very brief statement. Just a few minutes ago, the Democratic leader and I urged our colleagues to come forward and submit their amendments. We just had further discussion with the assistant Democratic leader. Over the course of the day, we must see these amendments.

Today, we continue debate on a bill to overhaul the intelligence community of the United States Government. It is a huge undertaking. The reforms are the most comprehensive since the National Security Act of 1947. But nothing less than the security of the United States of America is at stake.

We have determined enemies who will use any means available to take the lives of as many Americans as possible. They cheered when the Twin Towers fell. They dream of even larger calamities.

They must be stopped. And that requires an intelligence system that finds them, before they harm us.

Under the leadership of Senator COLLINS and Senator LIEBERMAN, the Government Affairs Committee has produced a bill that is worthy of this task. It was passed unanimously out of committee.

It has received support from the White House.

And it is supported by the Senate leadership.

The Senate will examine this legislation in a comprehensive and deliberate manner. We will be focused and expeditious.

We have a unanimous consent agreement that restricts amendments ''to the subject matter of the bill or related to the 9/11 Commission recommendations.''

I urge Senators that if they have, or are considering, amendments that they inform or file them with the manager today.

I am confident we will come to agreement on this package in a timely manner. I know that it is ambitious, but my hope is that we can complete this bill by the end of this week. This would give us time to conference with the House.

Reforming the executive branch and the legislative branch is key to improving the security of the American people and our great Nation.

I am proud to say that we have worked in a bipartisan manner at every level, from individual Members, through committees, to leadership.

We have also worked closely with the administration, which has embraced the findings and recommendations of the 9/11 Commission.

The administration has taken additional measures to further improve our counter-terrorism and intelligence efforts. These efforts deserve our praise.

The committee has worked to produce a bill that addresses fundamental issues facing our intelligence community. It contains a number of key recommendations consistent with the 9/11 report.

First, and most critically, the legislation creates a national intelligence director with robust budgetary and personnel authority over the intelligence community.

As recommended by the 9/11 report, the NID will be the President's primary intelligence advisor. This official will be Senate-confirmed and separate from the CIA Director. The NID's primary mission is to break down stovepipes, and knit the intelligence agencies into an agile and effective network.

The NID will develop and present to the President the annual budget request for the National Intelligence Program. Critically, the national intelligence director will receive the appropriation for the program.

The NID also will have parallel authority over major acquisitions funded through the appropriations that the NID will control.

The NID will have the authority to transfer funds within the National Intelligence Program. He or she will have authority to set our intelligence priorities.

The director will set standards for security, personnel, and information technology across the intelligence community.

The director will also play an active role in selecting the heads of the key entities in the National Intelligence Program.

Critically, the legislation requires the NID to provide intelligence that is independent of political considerations. To this end, the legislation establishes an analytic review unit to provide an independent and objective evaluation of the quality of analysis of national intelligence.

The NID will chair a cabinet-level Joint Intelligence Community Council. The purpose of the council is to advise the NID on setting requirements, financial management, and establishing policies across the intelligence community.

The council will help ensure the implementation of a joint, unified national intelligence effort to protect national security.

In addition to creating the national intelligence director post, the committee bill also establishes the National Counter Terrorism Center. Currently, our intelligence agencies are not maximally integrated in their efforts against terrorism. The committee seeks to remedy that through the creation of the counterterrorism center. The center will have a directorate of intelligence—in essence, a national intelligence center to integrate intelligence capabilities against terrorism.

The National Counterterrorism Center will also have a directorate of planning to develop interagency counterterrorism plans, assign agencies' responsibilities, and monitor implementation.

The center's directorate of planning will concentrate on developing joint counterterrorism plans, meaning plans that involve more than one agency. Such planning will be at both the strategic level, such as ''winning hearts and minds'' in the Muslim world, and at an operational level, such as hunting for bin Laden.

In addition to these two major reforms—the national intelligence director and the counterterrorism center—the legislation also includes provisions to strengthen the FBI and transform the CIA's capabilities.

The legislation before us is comprehensive. It is ambitious. And it contains the reforms that are critical to strengthening the intelligence community and protecting our country.

I am confident that this overhaul of our intelligence community—the largest since 1947—and the pending overhaul of the Senate oversight of intelligence—the largest in three decades—will make our country safer and more secure. We have no higher responsibility to our fellow Americans than protecting the homeland. Our lives, our freedoms, our liberties are at stake.

We have made tremendous progress in the days since 9/11. We've taken a hard look at our intelligence system, what it did right, where it went wrong. Many dedicated men and women have spent countless hours examining the facts and finding ways to fix the system. I am confident that the United States Senate will do our part to defend the homeland and make America more secure.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

WELFARE REFORM

Mr. SANTORUM. Mr. President, I will be offering a unanimous consent request to try to move forward on welfare reform and try to move this vitally important issue that affects millions of Americans out of the Senate and toward passage of an extension. Today, the House is going to pass an extension, and I hope we will also.

I think it is unfortunate that we are left in the position that we are not able to pass a welfare reform bill in the Senate, in spite of the fact that an amendment on the underlying bill passed $1.2 billion in new daycare spending. That has always been the mantra of those who oppose welfare reform and work requirements, that there wasn't enough money for daycare. Yet $1.2 billion was added to the welfare bill, and we had attempt after attempt to move that bill to conference. So far, we have not been able to do so. As a result, we are here for another extension.

We have had several extensions over the last 2 years. The problem with these extensions—let me make this point—is that the current welfare system was put into place in 1996. It had very tough work requirements. It had work requirements that were tied to

caseload reduction. What happened is we have had such a successful program over the last 8 years that almost all of the States have met their caseload reduction and therefore no longer have work requirements.

So what we are seeing is that gradually, slowly, a lot of these States that have reduced their caseload are falling back under work requirement—not requiring work and not requiring the transformative value that this new welfare system that was put into place in 1996 has given to millions of women and children in poverty over the last 8 years. If we just continue the 1996 bill, which was great in its time—it achieved what it wanted to achieve and needed to achieve. Now we need to ratchet it up to make sure the work requirement is maintained and that we are still moving people out of poverty into work. So this extension I am going to offer does not accomplish that. That is disappointing.

I hope to later on maybe offer an opportunity to go to conference, but for now, I want to offer a unanimous consent request to extend the current welfare bill for another 6 months and add two minor provisions that the Senator from Indiana, Mr. BAYH, and I have been working on now for quite some time in a bipartisan fashion.

The two provisions deal with fatherhood, money that was not provided in the 1996 Welfare Act to encourage responsible fatherhood. There is $100 million for that provision and also $200 million to do a whole variety of things to try to educate and encourage responsible marriage, if you will; responsible fatherhood, responsible marriage, encourage fathers and mothers who are having children outside of wedlock.

Let me give at least one example of how this money could be used. There was a study done at Princeton University which said that when a mother would apply for welfare with a child born out of wedlock, 80 percent of the mothers who applied for welfare in this study, done by a liberal professor from Princeton, said they were in a relationship with the father of the child. When the father of the child was asked, 80 percent said they were interested in marriage. So we have a mother and a father who in 80 percent of these cases that were studied said they were in a relationship at the time that welfare was applied for, which is certainly after the child's birth, and they were interested in marriage. Yet within a year's time, less than 10 percent of those couples were together.

The point here is that Government does nothing, other than attach the father's wages for child support, to encourage that relationship or help that relationship prosper. All we are interested in is getting the money out of the hide of the father, which is not necessarily what nurtures a relationship.

All we are suggesting is that if a mother and a father come in and say, yes, we are in a relationship, and, yes, we are interested in marriage at the time we are having this child, cannot the Government do something to help that situation? It is a very difficult time in these two young people's lives. They are going through a lot of stresses and strains. It is hard enough to have a child when you are married, much less when you are not married, and the difficulties associated with that. Could we pay for counseling? Could we pay for a faith-based organization to bring them in and help them get through these difficult times to nurture this relationship so the child of these two parents could have an opportunity to have a mother and a father in the home in a stable relationship?

If we look at the benefits of marriage, they are overwhelming. Social scientist after social scientist has come in to testify before the Finance Committee in a hearing earlier this year from the left and the right and they said: There is no argument here, marriage is beneficial for children.

It is beneficial for children because they have better school performance and there are fewer dropouts, fewer emotional and behavior problems, less substance abuse, less abuse and neglect, less criminal activity, fewer out-of-wedlock births. Everything we look at, marriage is a benefit to children. Why is the Government neutral on marriage? Why, if a couple is interested in marriage, can't we at least provide them some of the resources they need to build that relationship instead of just saying: Here is childcare dollars; if you want to get married, that is fine, we don't really care one way or the other; here are your childcare dollars and here are your whatever other dollars and that is all we care about. That is a short-term help for moms and children, but to have a stable, loving father and mother relationship is the best long-term help we can provide. But we do nothing. We are silent.

What we are proposing here is to try to do something to provide some resources through responsible fatherhood programs to—in this case, these programs are trying to bring in fathers who have not been involved in their children's lives—find mentoring programs and other programs funded through the nonprofit arena to help bring fathers back into the lives of their children. Children need moms and dads, and responsible mothers and responsible fathers are optimal. Senator BAYH has been a leader on this issue, along with Senator DOMENICI. I have worked also to try to get more responsible fathers back into the lives of their children.

Look at the statistics when it comes to fathers involved in children's lives: A child is two times more likely to abuse drugs if the father is not in the home, two times more likely to be abused if the father is not in the home, two times more likely to be involved in crime, three times more likely to fail in school, three times more likely to commit suicide, and five times more likely to be in poverty. That is what fatherlessness does to children.

This extension I am asking for is a straight extension, no other changes, simply two modifications: One, $100 million to help bring fathers back into the lives of these children to help improve some of these horrendous statistics we see here, and, two, to simply have some support where Government is no longer neutral, I would argue even against by enabling, if you will—I won't say survival because it is beyond that—but enabling women and children to go forward without fathers. You can make an argument it is beyond neutral, that we are empowering through Government money mothers not to need fathers as much as they did before all these programs were out here.

What we are saying is let's at least, if they express an interest in marriage, see if we can help them through this process. It is a straight extension, plus $100 million for fatherhood and $200 million for marriage programs.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 714, S. 2830; that the bill be read a third time and passed and 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. Is there objection?

Mr. REID. Reserving the right to object, Mr. President, we on this side note the intentions of the Senator from Pennsylvania. The two programs he talks about extending certainly have merit. I think if we had the opportunity to discuss them, offer amendments, and debate them, we could complete that very quickly.

The problem is that during the consideration of the welfare bill in March, the Senate passed a bipartisan amendment by a vote of 78 to 20 to put in $6 billion in childcare funding. It is my understanding the amendment my friend from Pennsylvania offers does not include that.

My question is, why should we create two new programs untested—but they appear to have some merit—without extending additional resources for childcare, something we know the Senate agrees to and we know parents need to succeed in the workplace?

I ask my friend, will the Senator modify his request to include the Snowe-Dodd amendment? If this were done, I think we could move forward on this very quickly.

Mr. SANTORUM. Mr. President, I would be willing to offer another unanimous consent request to take care of the very issue the Senator from Nevada has mentioned, which is I will offer another unanimous consent request to simply go to conference on the bill that is still pending in the Senate that has the $1.2 billion in the Dodd-Snowe amendment and send it to conference, and let's get this bill done.

So I am willing to go to conference on that bill. In fact, if we can first dispense with this first unanimous consent request, I would be happy to offer a second one.

The PRESIDING OFFICER. Is there objection to the first unanimous consent request?

Mr. REID. To the second?

The PRESIDING OFFICER. To the first.

Mr. REID. To the first? Yes.

The PRESIDING OFFICER. An objection is heard.

Mr. SANTORUM. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 305, H.R. 4; the committee substitute be agreed to; the bill, as amended, be read a third time and passed; and the motion to reconsider be laid upon the table. I further ask consent that the Senate insist upon its amendment, request a conference with the House, and the Chair be authorized to appoint conferees.

This is the welfare bill the Senator from Nevada described, the bill with $1.2 billion in new child care funding per year in mandatory spending. We have had this thing bound up in the Senate. The Senator asked would I be willing to amend my request. I have, in essence, done that.

Now we can send this bill to conference. We can start working on it with the House and maybe we can get a new welfare bill instead of having an extension, which I would agree with the Senator from Nevada is not adequate because, in the eyes of the Senator, it does not provide enough daycare money. I would say it is not adequate because it does not require work anymore. Most States in the country now do not have to have work requirements because of the way the 1996 law was written.

I agree with the Senator, this is the better solution. So I ask that unanimous consent.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I did not quite get what the unanimous consent was.

Mr. SANTORUM. Mr. President, I would be happy to read it again, but in essence it is to take the bill on the calendar now, which has the Snowe-Dodd amendment in it.

Mr. REID. H.R. 4?

Mr. SANTORUM. H.R. 4. And send it to conference and ask for a conference with the House.

Mr. REID. Mr. President, reserving the right to object, we have the timeline on this bill so it is unnecessary to go through it. I ask unanimous consent that it be printed in the RECORD as to what has happened.

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

BILL SUMMARY AND STATUS

H.R. 4—WELFARE EXTENSION

2/13/2003, 2:35 p.m.: H. Amdt. 2—On agreeing to the Kucinich amendment (A001) Failed by recorded vote: 124–300 (Roll No. 27).

2/13/2003, 2:38 p.m.: H. Amdt. 3—Amendment (A002) in the nature of a substitute offered by Mr. Cardin (consideration: CF H530—546, H547–550; text: CR H530–542. Amendment in the nature of a substitute sought to expand state flexibility to provide training and education, increase to 70 percent the number that are required to be engaged in work related activities, provide states with an employment credit, maintain the current participation requirement, maintain the time limit on Temporary Assistance for Needy Families (TANF) benefits, increase child care funding by $11 billion over the next 5 years, and remove barriers to serving legal immigrants.

2/13/2003, 3:49 p.m.: H. Amdt. 3—On agreeing to the Cardin amendment (A002) Failed by recorded vote: 197–225 (Roll No. 28).

2/13/2003, 3:50 p.m.: Mr. Cardin moved to recommit with instructions to Ways and Means (consideration: CR H550–552; text: CR H550).

2/13/2003, 4:15 p.m.: On motion to recommit with instructions Failed by the Yeas and Nays: 197–221 (Roll No. 29).

2/13/2003, 4:21 p.m.: On passage Passed by the Yeas and Nays: 230–192 (Roll No. 30) (text: CR H499–513).

2/13/2003, 4:21 p.m.: Motion to reconsider laid on the table Agreed to without objection.

2/13/2003: Received in the Senate and Read twice and referred to the Committee on Finance.

9/10/2003: Committee on Finance. Ordered to be reported with an amendment in the nature of a substitute favorably (Markup report: National Journal, CQ).

10/3/2003: Committee on Finance. Reported by Senator Grassley with an amendment in the nature of a substitute. With written report No. 108–162. Minority views filed.

10/3/2003: Placed on Senate Legislative Calendar under General Orders. Calendar No. 305.

3/29/2004: Measure laid before Senate (consideration: CR S3219–3254, S3256–3278; text of measure as reported in Senate: CR S3219–3254).

3/29/2004: S. Amdt. 2937—Amendment SA 2937 proposed by Senator Grassley for Senator Snowe (consideration: CR S3260, S3273–3274). To provide additional funding for child care.

3/30/2004: Considered by Senate (consideration: CR S3324–3345).

3/30/2004: S. Amdt. 2937—Considered by Senate (consideration: SR S3324, S3334–3335).

3/30/2004: S. Amdt. 2937—Amendment SA 2937 agreed to in Senate by Yea-Nay Vote. 78–20. Record Vote No. 64.

3/30/2004: S. Amdt. 2945—Amendment SA 2945 proposed by Senator Boxer (consideration: CR S3336–3345; text: CR S3336). To amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

3/30/2004: Cloture motion on the committee substitute amendment presented in Senate (consideration: CR S3359; text: CR S3359).

3/31/2004: Considered by Senate (consideration: CR S3407–3448).

3/31/2004: S. Amdt. 2945—Considered by Senate (consideration: CR S3407).

4/1/2004: Considered by Senate (consideration: CR S3529–3538, S3544–3557).

4/1/2004: S. Amdt. 2945—Considered by Senate (consideration: CR S3529).

4/1/2004: Cloture motion on the committee substitute amendment not invoked in Senate by Yea-Nay Vote. 51–47. Record Vote No. 65 (consideration: CR S3538).

Mr. REID. Mr. President, at the time the debate was going forward on this most important bill, an amendment was offered by the Senator from California dealing with minimum wage. Immediately, cloture was filed. Cloture was not invoked.

We would have no problem going forward with the bill prior to going to conference, assuming the Senate seeks to resume H.R. 4 in the status it was when it was pulled from the floor which is, of course, the pendency of the Boxer amendment. So I ask my friend, the distinguished Senator from Pennsylvania, to modify his unanimous consent to allow us to proceed with H.R. 4 on the floor with the Boxer amendment pending.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I say to the Senator from Nevada that on March 30, I did that. I actually proposed the unanimous consent to allow a vote in relation to the Boxer amendment, with a substitute offered by Senator MCCONNELL on the issue of minimum wage, which I know was an important issue at the time of this discussion. I offered that unanimous consent so we could move forward and dispose of those two amendments and then move the bill to conference, and that was objected to.

There was objection to the extension with some minor modifications to help marriage and fatherhood. There was an objection to a unanimous consent that puts $1.2 billion into new child care funding to go to conference. We have seen objections—I suspect this will be objected to again, if I would offer it, which is an opportunity to have a vote on minimum wage up or down, and a vote on our minimum wage proposal up or down, and then send it to conference.

I do not know how many times one has to say no to get the idea that maybe there is something other than trying to get votes on issues that are of concern to the minority, that there might be some underlying concern about having an extension of the welfare bill or a modification to it, and I think that is probably where we are.

It is unfortunate because it is important to reestablish work requirements. It is important to give people the best opportunity to succeed in America. We have seen, for example, in this country, as a result of welfare reform which passed in 1996, the lowest rate of black poverty in the history of the country, lowest ever as a result of requiring work and changing the dynamic in low-income families in America. So we have shown success.

It is unfortunate we are not going to be able to continue that success as a result of the blocking maneuvers on the side of the Democrats.

I yield the floor.

The PRESIDING OFFICER. Is there objection to the Senator's unanimous consent?

Mr. REID. I have a modification of the request pending.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. SANTORUM. Mr. President, I object to the modification.

The PRESIDING OFFICER. The objection is heard.

Mr. REID. I object to the underlying request and ask the Senator to allow a clean extension for 6 months of this most important legislation.

The PRESIDING OFFICER. Is there objection?

Mr. SANTORUM. Mr. President, I will object for the moment. I understand the House is working on an extension right now. We may agree later today. Certainly, we need to do an extension and I will check with the leader on that.

The PRESIDING OFFICER. The objection is heard.

The Senator from Nevada.

Mr. REID. Mr. President, prior to my distinguished friend, the Senator from Kentucky, taking the floor, I inquire as to how much time is remaining with the majority?

The PRESIDING OFFICER. There is 13 minutes.

Mr. REID. Mr. President, if I could on behalf of Senator DASCHLE yield 15 minutes when our time comes to Senator KENNEDY, 5 minutes to Senator DURBIN, and 5 minutes to Senator FEINGOLD.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Kentucky.

FOUR-PART PRESIDENTIAL PLAN FOR IRAQ

Mr. MCCONNELL. Mr. President, the Presidential campaign is heating up and after considerable flipping and flopping, Senator KERRY claims to have finally presented the American people with something resembling a firm position on Iraq. It is a four-part plan, and frankly it resembles the plan President Bush has been pursuing for the last year and a half. I call it Senator KERRY's ''too little too late to gain credibility'' plan.

Although Kerry has characterized the administration's policy as a failure, perhaps he simply believes it would be a success were he the one implementing it. I wonder. Let us take a look.

The first part of Senator KERRY's plan is to ''internationalize because others must share the burden.'' Let's leave aside the inconvenient fact that Senator KERRY has denigrated the 19 countries that participated in the liberation of Iraq or the 34 helping to secure and rebuild that country today as a ''trumped up and so-called coalition of the bribed, the coerced, the bought and the extorted.''

This from the man who is so confident of his diplomatic skills.

Senator KERRY fails to understand that no amount of diplomacy will convince the countries whose interests compete with ours, or the nations that share our interests but lack our will or capacity to act, to join our efforts to bring security and freedom to the Middle East and the terrorists to their knees.

Senator KERRY wants to bring U.S. troops home within the first 6 months of his administration. So his plan is not to share the burden; it is to pass the buck. But to whom would he pass the buck?

The Financial Times reported yesterday that Germany and France will not send troops to Iraq even if JOHN KERRY is elected. Indeed, how could Senator KERRY convince any nation to send troops to a conflict he himself has called ''the wrong war at the wrong time''?

It would be nice to see the United Nations pulling its own weight once in a while, but one would have to be living in a fantasy world to believe that it will do so. If it continues to allow tyrannies like Sudan to chair the Human Rights Commission, the U.N. will follow the League of Nations into permanent and deserved irrelevance.

The second part of Kerry's plan is to ''train Iraqis because they must be responsible for their own security.'' Adding further confusion to his inconsistent claims that, first, the U.S. needs more troops in Iraq, that he would bring them home within the first 6 months of his administration, and that this would make America stronger at home and more respected in the world, Senator KERRY now claims the U.S. is not doing enough to train Iraqis to provide for their own security.

Well, about a year ago I traveled to Iraq and I stood with GEN David Petraeus in Mosul where I witnessed the graduation ceremony of an Iraqi security force, a unit trained by the 101st Airborne. I recall being impressed that so many Iraqis were willing to risk their lives to help secure their newly free country.

Petraeus completed his tour as the commanding general of the 101st Airborne in February of this year. After making sure his soldiers returned safely to Fort Campbell, KY, Dave Petraeus received his third star and went back to Baghdad, where he assumed responsibility for training Iraq's army and security forces. He is the right man for the job and, for me, his views carry enormous weight. He had an op-ed in the Washington Post this past Sunday that I would commend to my colleagues, in particular the junior Senator from Massachusetts. In it, he notes:

> Approximately 164,000 Iraqi police and soldiers . . . and an additional 74,000 facility protection forces are performing a wide variety of security missions.
>
> Equipment is being delivered. Training is on track and increasing in capacity. . . . Most important, Iraqi security forces are in the fight, so much so that they are suffering substantial casualties as they take on more and more of the burdens to achieve security in their country.

But he cautions that:

> Numbers alone cannot convey the full story. The human dimension of this effort is crucial. The enemies of Iraq recognize how much is at stake as Iraq reestablishes its security forces. Insurgents and foreign fighters continue to mount barbaric attacks against police stations, recruiting centers and military installations. . . . Yet despite the sensational attacks, there is no shortage of qualified recruits volunteering to join the Iraqi security forces.

This is David Petraeus.

So it would seem the training of Iraqis is well underway.

The third part of KERRY's plan is to ''move forward with reconstruction, because that's an important way to stop the spread of terror.''

I agree. When I spoke with General Petraeus in Iraq last year, he told me that: ''Money is ammunition,'' and that it was critical to get the Iraqi economy working again in order to provide jobs for Iraqis who may otherwise turn to violence. I returned to Washington and lobbied my colleagues to vote for the $87 billion to supply our troops and for Iraqi reconstruction, because I had seen firsthand how important it was to get Iraq's economy back on track.

It is a shame Senator KERRY was not listening to General Petraeus when he voted against this $87 billion for our troops. In fact, Senator KERRY still does not seem to get it, because he complained just recently that too much money was being spent on reconstruction in Iraq and too little was being spent in America.

We won the debate on the $87 billion for our troops and reconstruction in spite of Senator KERRY's—and Senator EDWARDS'—opposition. And although I am heartened Senator KERRY has come to appreciate the importance of this aid, I hope he understands that Presidents, unlike Senators, do not often get second chances to make crucial decisions.

The fourth and final plan in Senator KERRY's plan is to: ''help the Iraqis achieve a viable government, because it is up to them to run their own country.''

You could call this the ''Do as I say, not as I do'' plan, because Senator KERRY may have undermined the credibility of Iraq's Prime Minister—who traveled to America to consult with President Bush, to deliver a speech to a Joint Session of Congress, and rebut the criticism of those who believe Iraq and the world are not better off with Saddam Hussein in an Iraqi jail.

KERRY's wrong-headed criticism of Ayad Allawi—who risks his life every day to bring peace and democracy to Iraq—was as repugnant as it was undiplomatic. If a President KERRY were to treat foreign leaders as disgracefully as he treated Prime Minister Allawi, he would find it difficult to live up his campaign promise of being ''more respected in the world.''

Yet, KERRY has already done diplomatic damage, in my view. By maligning the judgment of America's most important new ally in the Middle East, Senator KERRY has fired a political shot that will be heard more loudly in the streets of Baghdad or Tehran than in Boston or Orlando. His comments were intended to undercut President

Bush's standing in the eyes of American voters, but they may have the consequence of undermining Prime Minister Allawi's position in Iraq.

If a potential President of the United States doesn't take the Iraqi Prime Minister seriously, why should the terrorists?

Writing about Iraq's transition from totalitarianism to democracy, General Petraeus concluded his op-ed with this line: It will not be easy, but few worthwhile things are.

Bringing democracy and stability to the heart of the Middle East is more than worthwhile. It is a critical component of our war against terrorists. For if we fail to offer an alternative to the corrupt theocracies and dictatorships of that region, we will forever be fighting the war against terrorism defensively, making it much more likely that we will be fighting terrorists in Chicago and New York than in the cities where they live and train.

We have an opportunity to fight side by side with our new Iraqi allies against the terrorists who share goals and tactics with those who hijacked planes on 9/11, who murdered hundreds of school children in Russia, and who bombed innocent civilians in Bali, Istanbul, Riyadh, Madrid, Jerusalem, and elsewhere. And if we fail to win this fight it will not be just Prime Minister Allawi's credibility that suffers, it will be our own.

Mr. President, I ask that General Petraeus's op-ed be printed in the RECORD.

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

[From the Washington Post, Sept. 26, 2004]

BATTLING FOR IRAQ

(By David H. Petraeus)

BAGHDAD.—Helping organize, train and equip nearly a quarter-million of Iraq's security forces is a daunting task. Doing so in the middle of a tough insurgency increases the challenge enormously, making the mission akin to repairing an aircraft while in flight—and while being shot at. Now, however, 18 months after entering Iraq, I see tangible progress. Iraqi security elements are being rebuilt from the ground up.

The institutions that oversee them are being reestablished from the top down. And Iraqi leaders are stepping forward, leading their country and their security forces courageously in the face of an enemy that has shown a willingness to do anything to disrupt the establishment of the new Iraq.

In recent months, I have observed thousands of Iraqis in training and then watched as they have conducted numerous operations. Although there have been reverses—not to mention horrific terrorist attacks—there has been progress in the effort to enable Iraqis to shoulder more of the load for their own security, something they are keen to do. The future undoubtedly will be full of difficulties, especially in places such as Fallujah. We must expect setbacks and recognize that not every soldier or policeman we help train will be equal to the challenges ahead.

Nonetheless, there are reasons for optimism. Today approximately 164,000 Iraqi police and soldiers (of which about 100,000 are trained and equipped) and an additional 74,000 facility protection forces are performing a wide variety of security missions. Equipment is being delivered. Training is on track and increasing in capacity. Infrastructure is being repaired. Command and control structures and institutions are being reestablished.

Most important, Iraqi security forces are in the fight—so much so that they are suffering substantial casualties as they take on more and more of the burdens to achieve security in their country. Since Jan. 1 more than 700 Iraqi security force members have been killed, and hundreds of Iraqis seeking to volunteer for the police and military have been killed as well.

Six battalions of the Iraqi regular army and the Iraqi Intervention Force are now conducting operations. Two of these battalions, along with the Iraqi commando battalion, the counterterrorist force, two Iraqi National Guard battalions and thousands of policemen recently contributed to successful operations in Najaf. Their readiness to enter and clear the Imam Ali shrine was undoubtedly a key factor in enabling Grand Ayatollah Ali Sistani to persuade members of the Mahdi militia to lay down their arms and leave the shrine.

In another highly successful operation several days ago, the Iraqi counterterrorist force conducted early morning raids in Najaf that resulted in the capture of several senior lieutenants and 40 other members of that militia, and the seizure of enough weapons to fill nearly four 7½-ton dump trucks.

Within the next 60 days, six more regular army and six additional Intervention Force battalions will become operational. Nine more regular army battalions will complete training in January, in time to help with security missions during the Iraqi elections at the end of that month.

Iraqi National Guard battalions have also been active in recent months. Some 40 of the 45 existing battalions—generally all except those in the Fallujah-Ramadi area—are conducting operations on a daily basis, most alongside coalition forces, but many independently. Progress has also been made in police training. In the past week alone, some 1,100 graduated from the basic policing course and five specialty courses. By early spring, nine academies in Iraq and one in Jordan will be graduating a total of 5,000 police each month from the eight-week course, which stresses patrolling and investigative skills, substantive and procedural legal knowledge, and proper use of force and weaponry, as well as pride in the profession and adherence to the police code of conduct.

Iraq's borders are long, stretching more than 2,200 miles. Reducing the flow of extremists and their resources across the borders is critical to success in the counterinsurgency. As a result, with support from the Department of Homeland Security, specialized training for Iraq's border enforcement elements began earlier this month in Jordan.

Regional academies in Iraq have begun training as well, and more will come online soon. In the months ahead, the 16,000-strong border force will expand to 24,000 and then 32,000. In addition, these forces will be provided with modern technology, including vehicle X-ray machines, explosive-detection devices and ground sensors.

Outfitting hundreds of thousands of new Iraqi security forces is difficult and complex, and many of the units are not yet fully equipped. But equipment has begun flowing. Since July 1, for example, more than 39,000 weapons and 22 million rounds of ammunition have been delivered to Iraqi forces, in addition to 42,000 sets of body armor, 4,400 vehicles, 16,000 radios and more than 235,000 uniforms.

Considerable progress is also being made in the reconstruction and refurbishing of infrastructure for Iraq's security forces. Some $1 billion in construction to support this effort has been completed or is underway, and five Iraqi bases are already occupied by entire infantry brigades.

Numbers alone cannot convey the full story. The human dimension of this effort is crucial. The enemies of Iraq recognize how much is at stake as Iraq reestablishes its security forces. Insurgents and foreign fighters continue to mount barbaric attacks against police stations, recruiting centers and military installations, even though the vast majority of the population deplores such attacks. Yet despite the sensational attacks, there is no shortage of qualified recruits volunteering to join Iraqi security forces. In the past couple of months, more than 7,500 Iraqi men have signed up for the army and are preparing to report for basic training to fill out the final nine battalions of the Iraqi regular army. Some 3,500 new police recruits just reported for training in various locations. And two days after the recent bombing on a street outside a police recruiting location in Baghdad, hundreds of Iraqis were once again lined up inside the force protection walls at another location—where they were greeted by interim Prime Minister Ayad Allawi.

I meet with Iraqi security force leaders every day. Though some have given in to acts of intimidation, many are displaying courage and resilience in the face of repeated threats and attacks on them, their families and their comrades. I have seen their determination and their desire to assume the full burden of security tasks for Iraq.

There will be more tough times, frustration and disappointment along the way. It is likely that insurgent attacks will escalate as Iraq's elections approach. Iraq's security forces are, however, developing steadily and they are in the fight. Momentum has gathered in recent months. With strong Iraqi leaders out front and with continued coalition—and now NATO—support, this trend will continue. It will not be easy, but few worthwhile things are.

Mr. REID. What is the time left for the majority?

The PRESIDING OFFICER. There is 3 minutes. The Senator from Mississippi.

EXTENSION OF MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that morning business be extended by 5 minutes on each side.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I have no objection at all. I know Senator KENNEDY has been waiting a long time, but that is fine. Five minutes won't hurt him. I have no objection.

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

The Senator from Mississippi is recognized.

Mr. REID. Mr. President, if I could, I will yield an additional 5 minutes to Senator DURBIN and an additional 5 minutes to Senator KENNEDY. That uses our entire 35 minutes.

The PRESIDING OFFICER. The Senator from Mississippi.

SENATOR KERRY AND AMERICA'S CHALLENGES

Mr. LOTT. Mr. President, as we look at the situation in America and in the world today, we face serious challenges. Obviously, the war on terrorism is one of the most serious challenges we have had in many decades, one that is different because there are no specific battles that are won or lost. There may not be a moment when we say it is over. Because we are dealing with a moving, shadowy element that uses the most dastardly types of attacks on individuals, innocent men, women, and children.

We have seen the situation in Florida, where the people there have been hit repeatedly by hurricanes and disasters. I guess you could say in many respects these are times that try men and women's souls.

We are under attack in a lot of ways. But, also, these are the times that require a certain trumpet. We cannot have uncertainty in terms of leadership. We cannot have an uncertain trumpet. We have to have direction, strong leadership, and courage to take a stand and follow it through. That is why I am very much worried about what I see in Senator KERRY and the positions he has taken, first on one side and then the other.

I was greatly distressed last week when we had the Prime Minister of Iraq here. He is a man who is showing strength, leadership, and great courage because his life is on the line every day with repeated assassination attempts directed at him. He came here. He said: Thank you, America. He said: We are going to have elections. We are going to have peace and freedom and democracy. We chose justice and the rule of law rather than chaos and anarchy. He did a magnificent job. I was inspired by what he is doing and by his speech.

Yet Senator KERRY attacked his speech before he even left town. Where are the basic courtesies that we have in the past extended to leaders of other countries?

President Bush, on the other hand, has shown strength, leadership, and courage. He is dealing with the issues of security. People see in him and hear in his voice a determination, a commitment, that will get us through this. But Senator KERRY has been flip-flopping back and forth on Iraq for not just the campaign but actually for years, going back to 2002 where he took one position and where now, in 2003 and 2004, he has taken a different position.

On September 20, 2004, he said that our most important task is to win the war on terrorism. On March 6, 2004, he balked at calling the war on terror an actual ''war.''

On September 20 he said Iraq was a ''diversion from'' the war on terror. Yet back in December of 2003 he said that Iraq is ''critical'' to the success of the war on terror.

In September of 2004 he said the evil of Saddam was enough to justify the war. Yet before that he agreed with the administration's goal of regime change. He also said that Saddam's ''breach of international values'' was a sufficient cause of war.

In 2004 he said Saddam's ''downfall . . . has left America less secure.'' Yet in December of 2003 he questioned the judgment of those claiming Saddam's capture doesn't help American security.

The list goes on and on. I ask unanimous consent this list be printed in the RECORD.

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

FLIP FLOP #1: ''MOST IMPORTANT TASK'' IS TO WIN ''WAR ON TERRORISM.''

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

. . . the events of September 11 reminded every American of that obligation. That day brought to our shores the defining struggle of our times: the struggle between freedom and radical fundamentalism. And it made clear that our most important task is to fight . . . and to win . . . the war on terrorism.

''In His Words: John Kerry,'' The New York Times Website, www. nytimes. com, March 6, 2004, Kerry Balked at Calling War on Terror an Actual War:

The final victory in the war on terror depends on a victory in the war of ideas, much more than the war on the battlefield. And the war—not the war, I don't want to use that terminology. The engagement of economies, the economic transformation, the transformation to modernity of a whole bunch of countries that have been avoiding the future.

FLIP FLOP #2: IRAQ WAS ''DIVERSION FROM'' WAR ON TERROR.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

. . . Iraq was a profound diversion from that war and the battle against our greatest enemy, Osama bin Laden and the terrorists. Invading Iraq has created a crisis of historic proportions and, if we do not change course, there is the prospect of a war with no end in sight.

Fox News' ''Special Report,'' December 15, 2003, Kerry Said Iraq ''Is Critical'' To Success of War on Terror:

Iraq may not be the war on terror itself, but it is critical to the outcome of the war on terror. And therefore any advance in Iraq is an advance forward in that.

FLIP FLOP #3: EVIL OF SADDAM WAS NOT ENOUGH TO JUSTIFY WAR.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

Saddam Hussein was a brutal dictator who deserves his own special place in hell. But that was not, in itself, a reason to go to war.

Senator John Kerry, Speech to the 2002 DLC National Conversation, New York, NY, July 29, 2002, Kerry Originally Agreed With Removing Saddam Hussein:

I agree completely with this Administration's goal of a regime change in Iraq—Saddam Hussein is a renegade and outlaw who turned his back on the tough conditions of his surrender put in place by the United Nations in 1991.

MSNBC's ''Hardball,'' October 10, 2002, Kerry Cited Saddam's ''Breach of International Values'' as Cause for War.

I believe the record of Saddam Hussein's ruthless, reckless breach of international values and standards of behavior is cause enough for the world community to hold him accountable by use of force if necessary.

FLIP FLOP #4: SADDAM'S ''DOWNFALL . . . HAS LEFT AMERICA LESS SECURE.''

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

The satisfaction we take in his downfall does not hide this fact: we have traded a dictator for a chaos that has left America less secure.

Anne Q. Hoy, ''Dean Faces More Criticism,'' [New York] Newsday, December 17, 2003, Kerry Questioned Judgment of Those Claiming Saddam's Capture Doesn't Help American Security:

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.

FLIP FLOP #5: DECISION TO GO INTO IRAQ ''COLOSSAL'' FAILURE.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

''The President now admits to ''miscalculations'' in Iraq. That is one of the greatest understatements in recent American history. His were not the equivalent of accounting errors. They were colossal failures of judgment—and judgment is what we look for in a president. This is all the more stunning because we're not talking about 20/20 hindsight. Before the war, before he chose to go to war, bi partisan Congressional hearings . . . major outside studies . . . and even some in the administration itself . . . predicted virtually every problem we now face in Iraq.

CNN's ''Inside Politics,'' August 9, 2004, in Response to Question About How He Would Have Voted if He Knew Then What He Knows Now, Kerry Confirmed That He Would Still Have Voted For Use Of Force Resolution:

Yes, I would have voted for the authority. I believe it's the right authority for a president to have. But I would have used that authority as I have said throughout this campaign, effectively. I would have done this very differently from the way President Bush has.

FLIP FLOP #6: ''IRAQ WAS NOT ''THREAT TO OUR SECURITY.''

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

We now know that Iraq had no weapons of mass destruction and posed no imminent threat to our security.

Ronald Brownstein, ''On Iraq, Kerry Appears Either Torn or Shrewd,'' Los Angeles Times, January 31, 2003, Kerry believed that Iraq had weapons of mass destruction and was a threat:

Kerry said, ''If you don't believe . . . Saddam Hussein is a threat with nuclear weapons, then you shouldn't vote for me.''

CNN's ''Inside Politics,'' August 9, 2004, In Response to Question About How He Would Have Voted if He Knew Then What He Knows Now, Kerry Confirmed That He Would Still Have Voted for Use of Force Resolution.

Yes, I would have voted for the authority. I believe it's the right authority for a president to have. But I would have used that authority as I have said throughout this campaign, effectively. I would have done this very differently from the way President Bush has.

FLIP FLOP #7: IRAQ WAR TOOK ''ATTENTION AND RESOURCES'' AWAY FROM AFGHANISTAN.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

The President's policy in Iraq took our attention and resources away from other, more serious threats to America. Threats like . . . the increasing instability in Afghanistan.

CNN's ''Larry King Live,'' December 14, 2001, Kerry Said War on Terror ''Doesn't End With Afghanistan'' and Suggested U.S. Move on To Addressing Menace of Saddam Hussein:

I think we clearly have to keep the pressure on terrorism globally. This doesn't end with Afghanistan by any imagination. And I think the president has made that clear. I think we have made that clear. Terrorism is a global menace. It's a scourge. And it is absolutely vital that we continue, for instance, Saddam Hussein.

FLIP FLOP #8: IRAQ NOT ''SOURCE OF SERIOUS DISAGREEMENT WITH OUR ALLIES'' BEFORE WAR.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

We know that while Iraq was a source of friction, it was not previously a source of serious disagreement with our allies in Europe and countries in the Muslim world.

CNN's ''Crossfire,'' November 12, 1997, Kerry Questioned Where Russia and France's Backbone To Stand up to Saddam Was:

So clearly the allies may not like it, and I think that's our great concern—where's the backbone of Russia, where's the backbone of France, where are they in expressing their condemnation of such clearly illegal activity, but in a sense, they're now climbing into a box and they will have enormous difficulty not following up on this if there is not compliance by Iraq.

CNN's ''Crossfire,'' November 12, 1997, Kerry Noted French Have Opposed U.S. on a Number of Foreign Policy Issues:

Well, John, frankly neither you nor I know that we did nothing. I don't know that for a fact. We certainly didn't publicly, I agree, but I don't know that we did nothing. But it's not the first time France has been very difficult, as the congressman said. I think a lot of us are very disappointed that the French haven't joined us in a number of other efforts with respect to China, with respect to other issues in Asia and elsewhere and also in Europe.

Fox News' ''The O'Reilly Factor,'' May 22, 2002, Kerry says that Europeans are ''Wrong On Iraq'' and U.S. ''Will Have To Do What We Need To Do.''

Fox News' Bill O'Reilly: ''The ambassador to Germany is basically saying what most people in Europe are saying, senator. They're afraid. They're afraid that if we go after Saddam Hussein, and all the Arabs get crazy, and the whole thing blows up, that Europe's going to take the brunt of this. I said you can't negotiate with tyrants out of fear. How do you feel about it?''

Senator John Kerry: ''I agree with you. . . . [I] think that you're correct in making that judgment. And I think we've all reached a judgment that obviously the United States has to protect our national security interests. And we have to do what we think is right. I do think the European demonstrations are larger than just Iraq. I think they're concerned about other issues, like global warming. They're concerned about proliferation. They're concerned about—I mean, there are a whole host of issues. So I think it's a more confused bag than just Iraq, but I think they're wrong on Iraq. I mean, plain and simply, the United States will have to do what we need to do, and our best judgment to protect our national security. And quite frankly, if we do what we need to do, it will also wind up protecting Europe.''

FLIP FLOP #9: PRESIDENT'S IRAQ POLICY ''HAS WEAKENED'' NATIONAL SECURITY.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

Let me put it plainly: The President's policy in Iraq has not strengthened our national security. It has weakened it.

Anne Q. Hoy, ''Dean Faces More Criticism,'' [New York] Newsday, December 17, 2003, Kerry Questioned Judgment of Those Claiming Saddam's Capture Doesn't Help American Security:

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.

FLIP FLOP #10: WOULD NOT HAVE INVADED IRAQ GIVEN WHAT HE KNOWS NOW.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

Yet today, President Bush tells us that he would do everything all over again, the same way. How can he possibly be serious? Is he really saying that if we knew there were no imminent threat, no weapons of mass destruction, no ties to Al Qaeda, the United States should have invaded Iraq? My answer is no—because a Commander-in-Chief's first responsibility is to make a wise and responsible decision to keep America safe.

CNN's ''Inside Politics,'' August 9, 2004, In Response to Question About How He Would Have Voted if He Knew Then What He Knows Now, Kerry Confirmed That He Would Still Have Voted for Use of Force Resolution:

Yes, I would have voted for the authority. I believe it's the right authority for a president to have. But I would have used that authority as I have said throughout this campaign, effectively. I would have done this very differently from the way President Bush has.

FLIP FLOP #11: '' 'CAPABILITY' TO ACQUIRE WEAPONS'' NOT REASON ENOUGH FOR WAR.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

Now the president, in looking for a new reason, tries to hang his hat on the 'capability' to acquire weapons. But that was not the reason given to the nation; it was not the reason Congress voted on; it's not a reason, it's an excuse.

Senator John Kerry, Congressional Record, October 9, 2002, page S10171, Kerry Called Those Who Would Leave Saddam Alone ''Naïve to the Point of Grave Danger: ''

It would be naïve to the point of grave danger not to believe that, left to his own devices, Saddam Hussein will provoke, misjudge, or stumble into a future, more dangerous confrontation with the civilized world.

CBS' ''Face The Nation,'' September 15, 2002, Kerry Said Saddam's Miscalculations are Biggest Concern, Not ''Actual'' WMD:

I would disagree with John McCain that it's the actual weapons of mass destruction he may use against us, it's what he may do in another invasion of Kuwait or in a miscalculation about the Kurds or a miscalculation about Iran or particularly Israel. Those are the things that—that I think present the greatest danger. He may even miscalculate and slide these weapons off to terrorist groups to invite them to be a surrogate to use them against the United States. It's the miscalculation that poses the greatest threat.

FLIP FLOP #12: ''CANNOT AFFORD'' TO FAIL IN IRAQ.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

In Iraq, we have a mess on our hands. But we cannot throw up our hands. We cannot afford to see Iraq become a permanent source of terror that will endanger America's security for years to come.

October 17, 2003, S. 1689, CQ Vote #400: Passed 87–12: R 50–0; D 37–11; I 0–1, Kerry Voted Nay:

Kerry voted against the $87 billion supplemental supporting our troops and providing resources needed to win in Iraq.

FLIP FLOP #13: IRAQ WAR ''MADE US LESS SECURE.''

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

I believe the invasion of Iraq has made us less secure and weaker in the war against terrorism.

Anne Q. Hoy, ''Dean Faces More Criticism,'' [New York] Newsday, December 17, 2003, Kerry Questioned Judgment of Those Claiming Saddam's Capture Doesn't Help American Security:

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.

FLIP FLOP #14: WOULD HAVE CONTINUED CONTAINMENT OF SADDAM.

Senator John Kerry, Remarks at New York University, New York, NY, September 20, 2004:

I would have tightened the noose and continued to pressure and isolate Saddam Hussein—who was weak and getting weaker—so that he would pose no threat to the region or America.

Senator John Kerry, Committee on Armed Services and Committee on Foreign Relations, U.S. Senate, Joint Hearing, September 3, 1998, Kerry Expressed Opposition to ''Policy of Containment:''

So we've got a major set of choices to make here. And we'd better make them. We've been sliding into a fundamental policy of containment, which I share with Major Ritter the notion is disastrous to our overall proliferation interests and disastrous with respect to the Middle East and our interests with respect to Saddam Hussein and Iraq. But we have to make a decision whether we're prepared to do what is necessary, and I mean to the point of a sustained targeting of the regime; not the Iraqi people, but the regime.

Mr. LOTT. But it goes beyond just the war on Iraq. What worries me is there is a pattern here, across the board, not only in that area that threatens our very security and our lives, the war on terrorism, but in area after area, issue after issue.

For instance, in 1991 Senator KERRY supported most-favored trade status for China and now he criticizes the Bush administration for trading with China.

Which is it? You cannot be for it and against it when you talk about international trade. Trade is good. America can compete. We do need to enlarge the pie. We need to make sure we have fair trade. But you cannot vote one way on trade and then be critical of it on the other side.

In October 2003, Senator KERRY called the fence that is being built in Israel for security purposes a ''barrier to peace.'' He was critical of it. Yet in February of 2004, he calls the fence a ''legitimate act of self-defense.'' You can't get into a very dangerous and sensitive situation like this and say one thing and then the other. What is it? Which is it? An uncertain trumpet takes lives.

Even in the case of eliminating the marriage penalty for the middle class, Senator KERRY said he will fight to keep the tax relief for married couples. He said Democrats fought to end the marriage penalty tax. Yet in 1998, he voted against eliminating the marriage penalty relief for married taxpayers with a combined income of less than $50,000 a year. Last week when we actually extended the elimination of that marriage penalty tax, of course, he didn't vote.

He even flip-flopped on the PATRIOT Act. The PATRIOT Act is a favorite punching bag now.

I was here when the death debate occurred. I remember the broad unanimous support involved in passing that legislation. We needed to do some things to give our law enforcement people the ability to deal with these terrorists. If you look at what has transpired since then, this great fear of having your library card checked or a ''knock in the night'' is not occurring. So he voted for it, and now he attacks the PATRIOT Act. He said:

> We are a nation of laws, and liberties, not of a knock in the night. So it is time to end the era of John Ashcroft.

I think that is an unfair shot at our former colleague, the Attorney General of the United States. Again, Senator KERRY was for the Patriot Act and now he is against it.

On the gay marriage amendment, in 2002, Senator KERRY signed a letter urging the Massachusetts legislature to reject a constitutional amendment banning gay marriage. Yet now in 2004 he won't rule out supporting a similar amendment. Which is it? Is it one thing in Massachusetts and another here in Washington?

Also, I think when you get into other issues like the death penalty for terrorists, these are relevant issues we can't take the wrong position on. Yet, in 1996, he attacked Governor Weld of Massachusetts for supporting the death penalty for terrorists. But now he said he might support the death penalty for terrorists.

On the No Child Left Behind Act, he voted for it, and now he attacks it as a ''mockery.'' He trashed it as an ''unfunded mandate'' with ''laudable goals.''

Let me tell you that I am a son of a schoolteacher. I was in public education all my life. I didn't go to some elite school. I went to public education. I stay in touch with teachers and administrators. And they tell me it is making a difference. We have goals and challenges. Teachers are doing better, students are doing better, and the money has been going up every year.

On issue after issue, he has flip-flopped.

I ask unanimous consent that the remainder of this lengthy list be printed in the RECORD.

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

FLIP-FLOPPED ON AFFIRMATIVE ACTION

In 1992, Kerry Called Affirmative Action ''Inherently Limited and Divisive.''

[W]hile praising affirmative action as ''one kind of progress'' that grew out of civil rights court battles, Kerry said the focus on a rights-based agenda has ''inadvertently driven most of our focus in this country not to the issue of what is happening to the kids who do not get touched by affirmative action, but . . . toward an inherently limited and divisive program which is called affirmative action.'' That agenda is limited, he said, because it benefits segments of black and minority populations, but not all. And it is divisive because it creates a ''perception and a reality of reverse discrimination that has actually engendered racism.'' (Lynne Duke, ''Senators Seek Serious Dialogue On Race,'' The Washington Post, 4/8/92)

In 2004, Kerry Denied Ever Having Called Affirmative Action ''Divisive.''

CNN's Kelly Wallace: ''We caught up with the Senator, who said he never called affirmative action divisive, and accused Clark of playing politics.''

Senator Kerry: ''That's not what I said. I said there are people who believe that. And I said mend it, don't end it. He's trying to change what I said, but you can go read the quote. I said very clearly I have always voted for it. I've always supported it. I've never, ever condemned it. I did what Jim Clyburn did and what Bill Clinton did, which is mend it. And Jim Clyburn wouldn't be supporting it if it were otherwise. So let's not have any politics here. Let's keep the truth.'' (CNN's ''Inside Politics,'' 1/30/04)

FLIP-FLOPPED ON ETHANOL

Kerry Twice Voted Against Tax Breaks for Ethanol.

(S. Con. Res. 18, CQ Vote #44: Rejected 48–52: R 11–32; D 37–20, 3/23/93, Kerry Voted Nay; S. Con. Res. 18, CQ Vote #68: Motion Agreed To 55–43: R 2–40; D 53–3, 3/24/93, Kerry Voted Yea)

Kerry Voted Against Ethanol Mandates.

(H.R. 4624, CQ Vote #255: Motion Agreed To 51–50: R 19–25; D 31–25, 8/3/94, Kerry Voted Nay)

Kerry Voted Twice To Increase Liability on Ethanol, Making it Equal to Regular Gasoline.

(S. 517, CQ Vote #87: Motion Agreed To 57–42: R 38–10; D 18–32; I 1–0, 4/25/02 Kerry Voted Nay; S. 14, CQ Vote #208: Rejected 38–57: R 9–40; D 28–17; I 1–0, 6/5/03, Kerry Voted Yea)

On the Campaign Trail, Though, Kerry is for Ethanol.

Kerry: ''I'm for ethanol, and I think it's a very important partial ingredient of the overall mix of alternative and renewable fuels we ought to commit to.'' (MSNBC/DNC, Democrat Presidential Candidate Debate, Des Moines, IA, 11/24/03)

FLIP-FLOPPED ON CUBA SANCTIONS

Senator Kerry has Long Voted Against Stronger Cuba Sanctions.

(H.R. 927, CQ Vote #489, Motion Rejected 59–36: R 50–2; D 9–34, 10/17/95, Kerry Voted Nay; S. 955, CQ Vote #183: Rejected 38–61: R 5–49; D 33–12, 7/17/97, Kerry Voted Yea; S. 1234, CQ Vote #189, Motion Agreed To 55–43: R 43–10; D 12–33, 6/30/99, Kerry Voted Nay; S. 2549, CQ Vote #137: Motion Agreed To 59–41: R 52–3; D 7–38, 6/20/00, Kerry Voted Nay)

In 2000, Kerry Said Florida Politics is Only Reason Cuba Sanctions Still in Place.

Senator John F. Kerry, the Massachusetts Democrat and member of the Foreign Relations Committee, said in an interview that a reevaluation of relations with Cuba was ''way overdue.'' ''We have a frozen, stalemated, counterproductive policy that is not in humanitarian interests nor in our larger credibility interest in the region,'' Kerry said. . . . ''It speaks volumes about the problems in the current American electoral process. . . . The only reason we don't reevaluate the policy is the politics of Florida.'' (John Donnelly, ''Policy Review Likely On Cuba,'' The Boston Globe, 4/9/00)

Now Kerry Panders to Cuban Vote, Saying He Would Not Lift Embargo Against Cuba.

Tim Russert: ''Would you consider lifting sanctions, lifting the embargo against Cuba?''

Senator Kerry: ''Not unilaterally, not now, no.'' (NBC's ''Meet The Press,'' 8/31/03)

Kerry Does Not Support ''Opening Up the Embargo Wily Nilly.''

Kerry said he believes in ''engagement'' with the communist island nation but that does not mean, ''Open up the dialogue.'' He believes it ''means travel and perhaps even remittances or cultural exchanges'' but he does not support ''opening up the embargo wily nilly.'' (Daniel A. Ricker, ''Kerry Says Bush Did Not Build A 'Legitimate Coalition' In Iraq,'' The Miami Herald, 11/25/03)

FLIP-FLOPPED ON NAFTA

Kerry Voted for NAFTA.

(H.R. 3450, CQ Vote #395: Passed 61–38: R 34–10; D 27–28, 11/20/93, Kerry Voted Yea)

Kerry Recognized NAFTA Is Our Future.

NAFTA recognizes the reality of today's economy—globalization and technology,'' Kerry said. ''Our future is not in competing at the low-level wage job; it is in creating high-wage, new technology jobs based on our skills and our productivity.'' (John Aloysius Farrell, ''Senate's OK Finalizes NAFTA Pact,'' The Boston Globe, 11/21/93)

Now, Kerry Expresses Doubt About NAFTA.

Kerry, who voted for NAFTA in 1993, expressed some doubt about the strength of free-trade agreements. ''If it were before me today, I would vote against it because it doesn't have environmental or labor standards in it,'' he said. (David Lightman, ''Democrats Battle For Labor's Backing,'' Hartford Courant, 8/6/03)

FLIP-FLOPPED ON SMALL BUSINESS INCOME TAXES

Kerry Voted Against Exempting Small Businesses and Family Farms From Clinton Income Tax Increase.

(S. Con. Res. 18, CQ Vote #79: Motion Agreed To 54–45: R 0–43; D 54 2, 3/25/93, Kerry Voted Yea)

Three Months Later, Kerry Voted in Favor of Proposal To Exclude Small Businesses From the Increased Income Tax.

(S. 1134, CQ Vote #171: Motion Rejected 56–42: R 43–0; D 13–42, 6/24/93, Kerry Voted Yea)

Kerry Claimed he Fought To Exempt Small Businesses From Income Tax Increases.

I worked to amend the reconciliation bill so that it would . . . exempt small businesses who are classified as subchapter S corporations from the increased individual income tax. (Sen. John Kerry, Congressional Record, 6/29/93, p. S 8268)

KERRY FLIP-FLOPPED ON 50-CENT GAS TAX INCREASE

In 1994, Kerry Backed Half-Dollar Increase in Gas Tax.

Kerry said [the Concord Coalition's scorecard] did not accurately reflect individual lawmakers' efforts to cut the deficit. ''It doesn't reflect my $43 billion package of cuts or my support for a 50-cent increase in the gas tax,'' Kerry said. (Jill Zuckman, ''Deficit-Watch Group Gives High Marks To 7 N.E. Lawmakers,'' The Boston Globe, 3/1/94)

Two Years Later, Kerry Flip-Flopped.

Kerry no longer supports the 50-cent [gas tax] hike, nor the 25-cent hike proposed by the [Concord] coalition. (Michael Grunwald, ''Kerry Gets Low Mark On Budgeting,'' The Boston Globe, 4/30/96)

FLIP-FLOPPED ON LEAVING ABORTION UP TO STATES

Kerry Used To Say Abortion Should be Left up to States.

''I think the question of abortion is one that should be left for the states to decide,'' Kerry said during his failed 1972 Congressional bid. (''John Kerry On The Issues,'' The [Lowell, MA] Sun, 10/11/72)

Now Kerry Says Abortion is Law of Entire Nation.

The right to choose is the law of the United States. No person has the right to infringe on that freedom. Those of us who are in government have a special responsibility to see to it that the United States continues to protect this right, as it must protect all rights secured by the constitution. (Sen. John Kerry [D-MA], Congressional Record, 1/22/85)

FLIP-FLOPPED ON LITMUS TESTS FOR JUDICIAL NOMINEES

Kerry Used To Oppose Litmus Tests for Judicial Nominees.

Throughout two centuries, our federal judiciary has been a model institution, one which has insisted on the highest standards of conduct by our public servants and officials, and which has survived with undiminished respect. Today, I fear that this institution is threatened in a way that we have not seen before. . . . This threat is that of the appointment of a judiciary which is not independent, but narrowly ideological, through the systematic targeting of any judicial nominee who does not meet the rigid requirements of litmus tests imposed . . . (Sen. John Kerry, Congressional Record, 2/3/86, p. S864)

But Now Kerry Says he Would Only Support Supreme Court Nominees Who Pledge To Uphold Roe v. Wade.

The potential retirement of Supreme Court justices makes the 2004 presidential election especially important for women, Senator John F. Kerry told a group of female Democrats yesterday, and he pledged that if elected president he would nominate to the high court only supporters of abortion rights under its Roe v. Wade decision. . . . ''Any president ought to appoint people to the Supreme Court who understand the Constitution and its interpretation by the Supreme Court. In my judgment, it is and has been settled law that women, Americans, have a defined right of privacy and that the government does not make the decision with respect to choice. Individuals do.'' (Glen Johnson, ''Kerry Vows Court Picks To Be Abortion-Rights Supporters,'' The Boston Globe, 4/9/03)

FLIP-FLOPPED ON TAX CREDITS FOR SMALL BUSINESS HEALTH

In 2001, Kerry Voted Against Amendment Providing $70 Billion for Tax Credits for Small Business To Purchase Health Insurance.

(H. Con. Res. 83, CQ Vote #83: Rejected 49–51: R 48–2; D 1–49, 4/5/01, Kerry Voted Nay)

Now, Kerry Promises Refundable Tax Credits to Small Businesses for Health Coverage.

Refundable tax credits for up to 50 percent of the cost of coverage will be offered to small businesses and their employees to make health care more affordable. (''John Kerry's Plan To Make Health Care Affordable To Every American,'' John Kerry For President Website, www.johnkerry.com, Accessed 1/21/04)

FLIP-FLOPPED ON HEALTH COVERAGE

In 1994, Kerry Said Democrats Push Health Care Too Much.

[Kerry] said Kennedy and Clinton's insistence on pushing health care reform was a major cause of the Democratic Party's problems at the polls. (Joe Battenfeld, ''Jenny Craig Hit With Sex Harassment Complaint—By Men,'' Boston Herald, 11/30/94)

But Now Kerry Calls Health Care His ''Passion.''

Senator John Kerry says expanding coverage is ''my passion.'' (Susan Page, ''Health Specifics Could Backfire On Candidates,'' USA Today, 6/2/03)

FLIP-FLOPS ON STOCK OPTIONS EXPENSING

Kerry Used To Oppose Expensing Stock Options.

Democratic Senator John F. Kerry was among those fighting expensing of stock options. (Sue Kirchhoff, ''Senate Blocks Options,'' The Boston Globe, 7/16/02)

Kerry Said Expensing Options Would Not ''Benefit the Investing Public.''

Kerry: ''Mr. President, the Financial Accounting Standards Board . . . has proposed a rule that will require companies to amortize the value of stock options and deduct them off of their earnings statements . . . I simply cannot see how the FASB rule, as proposed, will benefit the investing public.'' (Senator John Kerry, Congressional Record, 3/10/94, p. S2772)

But Now Kerry Says he Supports Carrying of Stock Options as Corporate Expense.

On an issue related to corporate scandals, Kerry for the first time endorsed the carrying of stock options as a corporate expense. The use of stock options was abused by some companies and contributed to overly optimistic balance sheets. Kerry applauded steps by Microsoft Corp. to eliminate stock options for employees and said all publicly traded companies should be required to expense such options. (Dan Balz, ''Kerry Raps Bush Policy On Postwar Iraq,'' The Washington Post, 7/11/03)

FLIP-FLOPPED ON MEDICAL MARIJUANA

Kerry Said His ''Personal Disposition is Open to the Issue of Medical Marijuana.''

Aaron Houston of the Granite Staters for Medical Marijuana said that just a month ago Mr. Kerry seemed to endorse medical marijuana use, and when asked about the content of his mysterious study, said, ''I am trying to find out. I don't know.'' Mr. Kerry did say his ''personal disposition is open to the issue of medical marijuana'' and that he'd stop Drug Enforcement Administration raids on patients using the stuff under California's medical marijuana law. (Jennifer Harper, ''Inside Politics,'' The Washington Times, 8/8/03)

But Now Kerry Says he Wants To Wait for Study Analyzing Issue Before Making Final Decision.

The Massachusetts Democrat said Wednesday he'd put off any final decision on medical marijuana because there's ''a study under way analyzing what the science is.'' (Jennifer Harper, ''Inside Politics,'' The Washington Times, 8/8/03)

FLIP-FLOPPED ON PACS

Kerry Used To Decry ''Special Interests And Their PAC Money.''

''I'm frequently told by cynics in Washington that refusing PAC money is naive,'' Kerry told his supporters in 1985. ''Do you agree that it is 'naive' to turn down special interests and their PAC money?'' (Glen Johnson, ''In A Switch, Kerry Is Launching A PAC,'' The Boston Globe, 12/15/01)

But Now, Kerry Has Established His Own PAC.

A week after repeating that he has refused to accept donations from political action committees, Senator John F. Kerry announced yesterday that he was forming a committee that would accept PAC money for him to distribute to other Democratic candidates. . . . Kerry's stance on soft money, unregulated donations funneled through political parties, puts him in the position of raising the type of money that he, McCain, and others in the campaign-finance reform movement are trying to eliminate. (Glen Johnson, ''In A Switch, Kerry Is Launching A PAC,'' The Boston Globe, 12/15/01)

FLIP-FLOPPED ON $10,000 DONATION LIMIT TO HIS PAC

When Kerry Established His PAC in 2001, he Instituted a $10,000 Limit on Donations.

A week after repeating that he has refused to accept donations from political action committees, Senator John F. Kerry announced yesterday that he was forming a committee that would accept PAC money for him to distribute to other Democratic candidates . . . The statement also declared that the new PAC would voluntarily limit donations of so-called soft money to $10,000 per donor per year and disclose the source and amount of all such donations. (Glen Johnson, ''In A Switch, Kerry Is Launching A Pac,'' The Boston Globe, 12/15/01)

One Year Later, Kerry Started Accepting Unlimited Contributions.

Senator John F. Kerry, who broke with personal precedent last year when he established his first political action committee, has changed his fund-raising guidelines again, dropping a $10,000 limit on contributions from individuals, a cap he had touted when establishing the PAC. The Massachusetts Democrat said yesterday he decided to accept unlimited contributions, which has already allowed him to take in ''soft money'' donations as large as $25,000, because of the unprecedented fund-raising demands confronting him as a leader in the Senate Democratic caucus. (Glen Johnson, ''Kerry Shifts Fund-Raising Credo For His Own PAC,'' The Boston Globe, 10/4/02)

FLIP-FLOPPED ON BALLISTIC MISSILE DEFENSE

Kerry Called for Cancellation of Missile Defense Systems in 1984 and has Voted Against Funding for Missile Defense at Least 53 Times Between 1985 and 2000.

(''John Kerry On The Defense Budget,'' Campaign Position Paper, John Kerry For U.S. Senate, 1984; S. 1160, CQ Vote #99: Rejected 21–78: R 2–50; D 19–28, 6/4/85, Kerry Voted Yea; S. 1160, CQ Vote #100: Rejected 38–57: R 6–45; D 32–12, 6/4/85, Kerry Voted Yea; S. 1160, CQ Vote #101: Rejected 36–59: R 1–49; D 35–10, 6/4/85, Kerry Voted Yea; S. 1160, CQ Vote #103: Rejected 33–62: R 28–22; D 5–40, 6/4/85, Kerry Voted Nay; H.J. Res. 465, CQ Vote #365: Motion Agreed To 64–32: R 49–2; D 15–30, 12/10/85, Kerry Voted Nay; H.R. 4515, CQ Vote #122: Ruled Non-Germane 45–47: R 7–42; D 38–5, 6/6/86, Kerry Voted Yea; S. 2638, CQ Vote #176: Motion Agreed To 50–49: R 41–11; D 9–38, 8/5/86, Kerry Voted Nay; S. 2638, CQ Vote #177: Rejected 49–50: R 10–42; D 39–8, 8/5/86, Kerry Voted Yea; S. 1174, CQ Vote #248: Motion Agreed To 58–38: R 8–37; D 50–1, 9/17/87, Kerry Voted Yea; S. 1174, CQ Vote #259: Motion Agreed To 51–50: R 37–9; D 13–41, With

Vice President Bush Casting An ''Yea'' Vote, 9/22/87, Kerry Voted Nay; S. 2355, CQ Vote #124: Motion Agreed To 66–29: R 38–6; D 28–23, 5/11/88, Kerry Voted Nay; S. 2355, CQ Vote #125: Motion Agreed To 50–46: R 38–7; D 12–39, 5/11/88, Kerry Voted Nay; S. 2355, CQ Vote #126: Motion Rejected 47–50: R 38–6; D 9–44, 5/11/88, Kerry Voted Nay; S. 2355, CQ Vote #128: Motion Rejected 48–50: R 6–39; D 42–11, 5/11/88, Kerry Voted Yea; S. 2355, CQ Vote #136: Motion Agreed To 56–37: R 9–34; D 47–3, 5/13/88, Kerry Voted Yea; S. 2355, CQ Vote #137: Motion Agreed To 51–43: R 38–5; D 13–38, 5/13/88, Kerry Voted Nay; H.R. 4264, CQ Vote #251: Motion Rejected 35–58: R 35–9; D 0–49, 7/14/88, Kerry Voted Nay; H.R. 4781, CQ Vote #296: Motion Agreed To 50–44: R 5–39; D 45–5, 8/5/88, Kerry Voted Yea; S. 1352, CQ Vote #148: Motion Agreed To 50–47: R 37–6; D 13–41, 7/27/89, Kerry Voted Nay; H.R. 3072, CQ Vote #202: Rejected 34–66: R 27–18; D 7–48, 9/26/89, Kerry Voted Nay; H.R. 3072, CQ Vote #213: Adopted 53–47: R 39–6; D 14–41, 9/28/89, Kerry Voted Nay; S. 2884, CQ Vote #223: Adopted 54–44: R 2–42; D 52–2, 8/4/90, Kerry Voted Yea; S. 2884, CQ Vote #225: Motion Agreed To 56–41: R 39–4; D 17–37, 8/4/90, Kerry Voted Nay; S. 2884, CQ Vote #226: Motion Agreed To 54–43: R 37–6; D 17–37, 8/4/90, Kerry Voted Nay; S. 3189, CQ Vote #273: Passed 79–16: R 37–5; D 42–11, 10/15/90, Kerry Voted Nay; H.R. 5803, CQ Vote #319: Adopted 80–17: R 37–6; D 43–11, 10/26/90, Kerry Voted Nay; H. R. 4739, CQ Vote #320: Adopted 80–17: R 37–6; D 43–11, 10/26/90, Kerry Voted Nay; S. 1507, CQ Vote #168: Rejected 39–60: R 4–39; D 35–21, 7/31/91, Kerry Voted Yea; S. 1507, CQ Vote #171: Motion Agreed To 60–38: R 40–3; D 20–35, 8/1/91, Kerry Voted Nay; S. 1507, CQ Vote #172: Motion Agreed To 64–34: R 39–4; D 25–30, 8/1/91, Kerry Voted Nay; S. 1507, CQ Vote #173: Rejected 46–52: R 5–38; D 41–14, 8/1/91, Kerry Voted Yea; H. R. 2521, CQ Vote #207: Motion Agreed To 50–49: R 38–5; D 12–44, 9/25/91, Kerry Voted Nay; S. 2403, CQ Vote #85: Adopted 61–38: R 7–36; D 54–2, 5/6/92, Kerry Voted Yea; H.R. 4990, CQ Vote #108: Adopted 90–9: R 34–9; D 56–0, 5/21/92, Kerry Voted Yea; S. 3114, CQ Vote #182: Motion Rejected 43–49: R 34–5; D 9–44, 8/7/92, Kerry Voted Nay; S. 3114, CQ Vote #214: Rejected 48–50: R 5–38; D 43–12, 9/17/92, Kerry Voted Yea; S. 3114, CQ Vote #215: Adopted 52–46: R 39–4; D 13–42, 9/17/92, Kerry Voted Nay; H.R. 5504, CQ Vote #228: Adopted 89–4: R 36–4; D 53–0, 9/22/92, Kerry Voted Yea; S. 1298, CQ Vote #251: Adopted 50–48: R 6–36; D 44–12, 9/9/93, Kerry Voted Yea; S. Con. Res. 63, CQ Vote #64: Rejected 40–59: R 2–42; D 38–17, 3/22/94, Kerry Voted Yea; S. 1026, CQ Vote #354: Motion Agreed To 51–48: R 47–6; D 4–42, 8/3/95, Kerry Voted Nay; S. 1087, CQ Vote #384: Rejected 45–54: R 5–49; D 40–5, 8/10/95, Kerry Voted Yea; S. 1087, CQ Vote #397: Passed 62–35: R 48–4; D 14–31, 9/5/95, Kerry Voted Nay; H.R. 1530, CQ Vote #399: Passed 64–34: R 50–3; D 14–31, 9/6/95, Kerry Voted Nay; H.R. 2126, CQ Vote #579: Adopted 59–39: R 48–5; D 11–34, 11/16/95, Kerry Voted Nay; H.R. 1530, CQ Vote #608: Adopted 51–43: R 47–2; D 4–41, 12/19/95, Kerry Voted Nay; S. 1635, CQ Vote #157: Rejected 53–46: R 52–0; D 1–46, 6/4/96, Kerry Voted Nay; S. 1745, CQ Vote #160: Rejected 44–53: R 4–49; D 40–4, 6/19/96, Kerry Voted Yea; S. 1745, CQ Vote #187: Passed 68–31: R 50–2; D 18–29, 7/10/96, Kerry Voted Nay; S. 936, CQ Vote #171: Rejected 43–56: R 2–53; D 41–3, 7/11/97, Kerry Voted Yea; S. 1873, CQ Vote #131: Motion Rejected 59–41: R 55–0; D 4–41, 5/13/98, Kerry Voted Nay; S. 1873, CQ Vote #262: Motion Rejected 59–41: R 55–0; D 4–41, 9/9/98, Kerry Voted Nay; S. 2549, CQ Vote #178: Motion Agreed To 52–48: R 52–3; D 0–45, 7/13/00, Kerry Voted Nay)

Kerry Then Claimed To Support Missile Defense.

I support the development of an effective defense against ballistic missiles that is deployed with maximum transparency and consultation with U.S. allies and other major powers. If there is a real potential of a rogue nation firing missiles at any city in the United States, responsible leadership requires that we make our best, most thoughtful efforts to defend against that threat. The same is true of accidental launch. If it were to happen, no leader could ever explain not having chosen to defend against the disaster when doing so made sense. (Peace Action Website, ''Where Do The Candidates Stand On Foreign Policy?'' http://www.peace-action.org/2004/Kerry.html, Accessed 3/10/04)

Now Kerry Campaign Says He Will Defund Missile Defense.

Fox News' Major Garrett: ''Kerry would not say how much all of this would cost. A top military adviser said the Massachusetts Senator would pay for some of it by stopping all funds to deploy a national ballistic missile defense system, one that Kerry doesn't believe will work.

Kerry Advisor Rand Beers: He would not go forward at this time because there is not a proof of concept. (Fox News' ''Special Report,'' 3/17/03)

FLIP-FLOPPED ON 1991 IRAQ WAR COALITION

At The Time, Kerry Questioned Strength of 1991 Coalition.

I keep hearing from people, ''Well, the coalition is fragile, it won't stay together,'' and my response to that is, if the coalition is so fragile, then what are the vital interests and what is it that compels us to risk our young American's lives if the others aren't willing to stay the . . . course of peace? . . . I voted against the president, I'm convinced we're doing this the wrong way . . . '' (CBS' ''This Morning,'' 1/16/91)

Now Kerry has Nothing but Praise for 1991 Coalition.

Sen. John Kerry: ''In my speech on the floor of the Senate I made it clear, you are strongest when you act with other nations. All presidents, historically, his father, George Herbert Walker Bush, did a brilliant job of building a legitimate coalition and even got other people to help pay for the war.'' (NBC's ''Meet The Press,'' 1/11/04)

FLIP-FLOPPED ON VIEW OF WAR ON TERROR

Kerry Said War on Terror is ''Basically a Manhunt.''

Kerry was asked about Bush's weekend appearance on ''Meet the Press'' when he called himself a ''war president.'' The senator, who watched the session, remarked: ''The war on terrorism is a very different war from the way the president is trying to sell it to us. It's a serious challenge, and it is a war of sorts, but it is not the kind of war they're trying to market to America.'' Kerry characterized the war on terror as predominantly an intelligence gathering and law enforcement operation. ''It's basically a manhunt,'' he said. ''You gotta know who they are, where they are, what they're planning, and you gotta be able to go get 'em before they get us.'' (Katherine M. Skiba, ''Bush, Kerry Turn Focus To Each Other,'' Milwaukee Journal Sentinel, 2/13/04)

Two Weeks Later, Kerry Flip-Flopped, Saying War on Terror is More Than ''A Manhunt''.

This war isn't just a manhunt—a checklist of names from a deck of cards. In it, we do not face just one man or one terrorist group. We face a global jihadist movement of many groups, from different sources, with separate agendas, but all committed to assaulting the United States and free and open societies around the globe.'' (Senator John Kerry, Remarks At University Of California At Los Angeles, Los Angeles, CA, 2/27/04)

FLIP FLOPPED ON INTERNET TAXATION

In 1998, Kerry Voted To Allow States To Continue Taxing Internet Access After Moratorium Took Effect.

Kerry voted against tabling an amendment that would extend the moratorium from two years to three years and allow states that currently impose taxes on Internet access to continue doing so after the moratorium takes effect. (S. 442, CQ Vote #306: Motion Rejected 28–69: R 27–27; D 1–42, 10/7/98, Kerry Voted Nay)

In 2001, Kerry Voted To Extend Internet Tax Moratorium Until 2005 and Allow States To Form Uniform Internet Tax System With Approval of Congress.

(H.R. 1552, CQ Vote #341: Motion Agreed To 57–43: R 35–14; D 22–28; I 10–1, 11/15/01, Kerry Voted Nay)

Kerry Said ''We Do Not Support Any Tax on the Internet Itself.''

''We do not support any tax on the Internet itself. We don't support access taxes. We don't support content taxes. We don't support discriminatory taxes. Many of us would like to see a permanent moratorium on all of those kinds of taxes. At the same time, a lot of us were caught in a place where we thought it important to send the message that we have to get back to the table in order to come to a consensus as to how we equalize the economic playing field in the United States in a way that is fair.'' (Senator John Kerry, Congressional Record, 11/15/01, p. S11902)

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, do I have 20 minutes?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I ask the Chair to remind me when I have 4 minutes left.

The PRESIDING OFFICER. The Senator will be notified.

THIRTEEN REASONS WHY WE ARE NOT SAFER

Mr. KENNEDY. Mr. President, my friend from Mississippi attempted to describe my friend and colleague's position on a variety of different issues. As we know around here, one of the favorite techniques—we have just seen it—is to distort and misrepresent someone's position and then differ with it. That is what has been done with regard to Senator KERRY's position on the issues we just heard about. I know about the No Child Left Behind Act. I know JOHN KERRY's position, and I know his position on health care. We talk about his position on health care. What he wants for the American people is the same thing President Bush has for himself. When he talks about the No Child Left Behind Act, the fact is 4⅕ million children aren't getting the benefits of it. He can defend himself.

It is always interesting to me to listen to distortions and misrepresentations on his record. Read the Web site.

I listened to the Senator from Kentucky talk about Senator KERRY on Iraq. The fact of the matter is this President can't solve that problem. He has had his turn, and it is time to have someone new. You can ask, Why? Because he has burned his bridges with

the international community. He has insulted the world community and shattered and shredded all of the treaties of the United States with the world community on the matter of dealing with Iraq. They don't trust him. And they won't. And they will JOHN KERRY. You have had your time, Mr. President. You have had your turn to try to do it. JOHN KERRY has a plan to be able to do it. He has outlined that and it offers the best reason and the best hope for us to be able to achieve it.

Twenty-four years ago, the President of the United States, Ronald Reagan, posed the defining question to the American people in that election when he asked, ''Are you better off today than you were 4 years ago?'' That simple question is given greater relevance now than when Ronald Reagan asked it.

The defining issue today is national security. Especially in the post 9/11 world, people have the right to ask Ronald Reagan's question in a very specific and all- important way. Are we safer today because of the policies of President Bush?

Any honest assessment can lead to only one answer—and that answer is an emphatic no. President Bush is dead wrong and JOHN KERRY is absolutely right. We are not safer today and the reason we are not safer is because of the President's misguided war in Iraq. The President's handling of the war has been a toxic mix of ignorance, arrogance, and stubborn ideology. No amount of Presidential rhetoric or preposterous campaign spin can conceal the truth about the steady downward spiral in our national security since President Bush made that decision to go to war in Iraq.

No issue is more important today. The battle against terrorism is a battle we must win. Even those of us who opposed the war in Iraq understand that this is now an American commitment and we must see it through. But to remain silent in the face of mounting failures by this President and this White House is to weaken our security even further, and we cannot let that happen.

The President keeps saying America and the world are safer today and better off today because Saddam Hussein is gone. Let us count the ways that George Bush's war has not made America safer.

No. 1, Iraq has been a constant, perilous distraction from the real war on terrorism. There was no persuasive link between Saddam Hussein and al-Qaida. All you have to do is read the 9/11 Commission report. There it is on page 66.

Nor have we seen evidence indicating that Iraq cooperated with al-Qaida in the development or carrying out any attacks against the United States.

There it is—9/11 Commission, Mr. CHENEY; 9/11 Commission, Mr. Bush.

It is stated in the staff commission report as well:

Two senior bin Laden associates adamantly denied any ties between al-Qaida and Iraq. We have no credible evidence that Iraq and al-Qaida cooperated on attacks against the United States.

There it is. There it is, and this President indicates that this ties in.

We should have finished the job in Afghanistan. We should have finished the job with al-Qaida and the job with Osama bin Laden.

No. 2, the mismanagement of the war in Iraq has created a fertile and very dangerous new breeding ground for terrorists in Iraq and a powerful magnet for al-Qaida that didn't exist before the war. We can't go a day now without hearing of attacks in Iraq by insurgents and al-Qaida terrorists, and our troops are in far greater danger because of it.

In the month of August, 863 Americans were killed or wounded; 70 attacks every single day on American troops. And we hear the rosy picture of this administration, and the Secretary of Defense saying, ''I am encouraged by the way things are going.'' The President of United States said only a week ago that it is just a handful of insurgents.

Let us get real. This is what is happening. That this violence would occur was abundantly clear before the war.

We find in today's New York Times, pre-war assessment on Iraq shows chance of strong divisions. Is this the same intelligence unit that produced a gloomy report in July that President Bush says is just a matter of guesswork by our intelligence agencies? He changed that to ''estimate'' but initially called it ''guesswork.''

About the prospect of growing instability in Iraq, the report ''warned'' the Bush administration about the ''potential costly consequences of American-led invasion 2 months before the war began, Government officials said.''

The assessments predicted that an American invasion of Iraq would ''increase sympathy'' and support for political Islam and would result in a deeply divided Iraqi society prone to violent internal conflict.

There it is. Give it to the President of the United States. We have 140,000 American boys over there, with no tie-in with al-Qaida? And the predictions are right there in front of us that we were going to have this kind of conflict over there. And this administration says: Oh, no, we are a lot better off than we were before.

We should have finished the job against al-Qaida. We should have finished the job in Afghanistan. We should have had Osama bin Laden behind bars instead of Saddam Hussein.

And what did the administration do? They put on their ideological blinders, ignored the intelligence, and rushed headlong into a misguided war that has put our troops in perilous danger.

Mr. President, if we had gone into Afghanistan, we could have either ended or damaged al-Qaida, and captured Osama bin Laden. But al-Qaida is like a cancer. It metastasized. We had an opportunity to grab it all when we battled in Afghanistan, but we did not. We stepped back. We went into Iraq. And what has happened? Like a cancer, it has metastasized all over the world—in Southeast Asia, in Saudi Arabia, as far as Morocco, all over. It is a fundamental and basic miscalculation, and the American people are in greater danger as a result of that decision not to close the door on al-Qaida.

No. 4, because of the war, the danger of terrorist attacks against America itself has become greater. Our preoccupation with Iraq has given al-Qaida 2 full years to regroup and plan murderous new assaults on us. We know al-Qaida will try to attack America again and again at home if it possibly can. Yet instead of staying focused on the real war on terror, President Bush rushed headlong into an unnecessary war in Iraq.

No. 5, and most ominously, the Bush administration's focus on Iraq has left us needlessly more vulnerable to an al-Qaida attack with a nuclear weapon. The greatest threat of all to our homeland is a nuclear attack. A mushroom cloud over any American city is the ultimate nightmare, and the risk is all too great. Osama bin Laden calls the acquisition of a nuclear device a ''religious duty.'' Documents captured from a key al-Qaida aide 3 years ago reveal plans even then to smuggle high-grade radioactive materials into the United States in shipping containers.

If al-Qaida can obtain or assemble a nuclear weapon, they will use it on New York, Washington, or any American city. The greatest danger we face in the days and weeks ahead is a nuclear 9/11, and we hope and pray it is not already too late to prevent. The war in Iraq has made the mushroom cloud more likely, not less likely, and it never should have happened.

No. 6, the war in Iraq has provided a powerful worldwide recruiting tool for al-Qaida. We know al-Qaida is getting stronger because its attacks in other parts of the world are increasing. In the 8 years before 9/11, al-Qaida conducted three attacks. But in the 3 years since 9/11, it has carried out a dozen more attacks, killing hundreds in Spain, Pakistan, Indonesia, and elsewhere.

No. 7, because of the war, Afghanistan itself is still unstable. Taliban and al-Qaida elements roam the country. A dangerous border with Pakistan, where terrorists can easily cross, continues to be wide open. President Hamid Karzai is frequently forced to negotiate with warlords who control private armies in the tens of thousands. Opium production is at a record level and is being used to finance terrorism. Our troops there are in greater danger. Free and fair elections are in greater danger. The war in Iraq has stretched our troops thin to the point where we cannot provide enough additional forces to stop the rising drug trade and enable President Karzai to gain full control of

the country and root out al-Qaida. How can we afford not to do that?

No. 8, we have alienated longtime friends and leaders in other nations, whom we heavily depend on for intelligence, for border enforcement, for shutting off funds to al-Qaida, and for many other types of support in the ongoing war against international terrorism. Mistrust of America has soared throughout the world, and we are especially hated in the Muslim world. In parts of it, the bottom has fallen out.

The past 2 years have seen the steepest and deepest fall from grace our country has ever suffered in the eyes of the world community in all our history. We remember the enormous goodwill that flowed to America in the aftermath of September 11, and we never should have squandered it.

Does President Bush ever learn? His chip-on-the-shoulder address to the United Nations last week was yet another missed opportunity to turn the page and start regaining the genuine support of the world community for a sensible policy on Iraq.

In fact, the President's arrogance toward the world community has left our soldiers increasingly isolated and alone. We have nearly 90 percent of the troops on the ground in Iraq, and more than 95 percent of those killed and wounded are Americans. Instead of other nations joining us, initially supportive nations are pulling out. The so-called coalition of the willing has become the coalition of the dwindling.

No. 9, our overall military forces are stretched to the breaking point because of the war in Iraq. As the Defense Science Board recently told Secretary Rumsfeld:

> Current and projected force structure will not sustain our current and projected global stabilization commitments.

LTG John Riggs said it clearly:

> I have been in the Army 39 years, and I've never seen the Army as stretched in that 39 years as I have today.

As Senator JOHN MCCAIN warned last week, if we have a problem in some other flash point in the world, ''it's clear, at least to most observers, that we don't have sufficient personnel.''

The war has also undermined the Guard and Reserve. Many Guard members are also first responders for any terrorist attack on the United States. Our homeland security, as well, is being weakened because of their loss.

No. 10, the war in Iraq has undermined the basic rule of international law that protects captured Americans. The Geneva Conventions are supposed to protect our forces, but the brutal interrogation techniques used at Abu Ghraib prison in Iraq have lowered the bar for treatment of POWs and endangered our soldiers throughout the world.

No. 11, while President Bush has been preoccupied with Iraq, not just one but two serious nuclear threats have been rising—from North Korea and Iran. Four years ago, North Korea's plutonium program was inactive. Its nuclear rods were under seal. Two years ago, as the Iraq debate became intense, North Korea expelled the international inspectors and began turning its fuel rods into nuclear weapons. At the beginning of the Bush administration, North Korea was already thought to have two such weapons. Now they may have eight or more, and the danger is far greater.

Iran, too, is now on a fast track that could produce nuclear weapons. The international inspectors found traces of highly enriched uranium at two nuclear sites, and Iran admitted last March that it had the centrifuges to enrich uranium. The international community might be more willing to act if President Bush had not abused the U.N. resolution passed on Iraq 2 years ago, when he took the words ''serious consequences'' as a license for launching his unilateral war in Iraq. Now, after that breach of faith with the world community, other nations now refuse to trust us enough to enact a similar U.N. resolution on Iran because they fear President Bush will use it to justify another reckless war.

No. 12, while we focused on the nonexistent nuclear threat from Saddam, we have not done enough to safeguard the vast amounts of unsecured nuclear material in the world. According to a joint report by the Nuclear Threat Initiative and Harvard's Managing-the-Atom Project, ''scores of nuclear terrorist opportunities lie in wait in countries all around the world''—especially at sites in the former Soviet Union that contain enough nuclear material for a nuclear weapon and are poorly defended against terrorists and criminals.

As former Senator Sam Nunn said:

> The most effective, least expensive way to prevent nuclear terrorism is to secure nuclear weapons and materials at the source.

How loudly—how loudly—does the alarm bell have to ring before President Bush wakes up?

No. 13, the neglect of the Bush administration of all aspects of homeland security because of the war is frightening. All we have to do is look at today's paper.

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. KENNEDY. Mr. President, I ask the Chair to notify me when I have 1 minute remaining.

It says in the paper that the FBI is said to lag on translations. It talks about 3 years after 9/11 more than 120,000 hours of potentially valuable terrorism-related recordings have not been translated by the linguists at the FBI. Then it talks about that the al-Qaida messages ''tomorrow is zero hour'' and ''the match is about to begin'' were intercepted by the National Security Agency on September 10 but not translated until days afterwards.

Homeland security? Why aren't we getting this done in terms of securing our homeland? We are pouring nearly $5 billion a month into Iraq. We are grossly shortchanging the urgent need to strengthen our ability to prevent terrorist attacks at home and to strengthen our preparedness to respond to them if they occur.

As former Republican Senator Warren Rudman, chairman of the Independent Task Force on Emergency Responders, said: ''Homeland security is terribly underfunded.''

That is a Republican Senator who is saying that. That isn't a Democrat. ''Terribly underfunded.''

We see what happens as a result. Our hospitals are unprepared for a bioterrorist attack. Our land borders, our seaports, our shipping containers, our transit systems, our waterways, nuclear power—none of these have sufficient funds for protection against terrorist attacks, even though the Bush administration has put the Nation on high alert for such attacks five times in the last 3 years.

You can't pack all these reasons America is not safer into a 30-second television response ad or a news story or an editorial. But as anyone who cares about the issue can quickly learn, our President has no credibility—no credibility—when he keeps telling us that America and the world are safer because he went to war in Iraq and rid us of Saddam Hussein.

President Bush's record on Iraq is clearly costing American lives and endangering America and the world. Our President won't change or even admit how wrong he has been and still is. Despite the long line of mistaken blunders and outright deception, there has been no accountability. As election day draws closer, the buck is circling more and more closely over 1600 Pennsylvania Avenue. Only a new President can right the extraordinary wrongs of the Bush administration on our foreign policy and our national security.

On November 2, the American people will decide whether they still have confidence in this President's leadership. When we ask ourselves the fundamental question, whether President Bush has made us safer, there can only be one answer. No, he has not. That is why America needs new leadership. We could have been, and we should have been much safer than we are today.

We cannot afford to stay this very dangerous course. This election cannot come soon enough. As I have said before, the only thing America has to fear is 4 more years of George Bush.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Wisconsin.

THE 40TH ANNIVERSARY OF THE WILDERNESS ACT

Mr. FEINGOLD. Mr. President, September 3, 2004, marked the 40th anniversary of the Wilderness Act. I have introduced a resolution, S. Res. 387, commemorating this important milestone, and I hope the Senate will approve this resolution, which has 18 cosponsors, before we adjourn for the year.

I would like to take this opportunity to recognize the many people who have

helped us preserve over 106 million acres of wilderness for future generations to hike, to hunt, to fish, and to enjoy.

People such as Howard Zahniser, Olaus and Mardy Murie, Ceila Hunter, and Bob Marshall had the vision to protect our wild places. Legislators such as John Saylor and Hubert Humphrey listened to them and made their vision a reality.

As a Senator from Wisconsin, I feel a special bond with this issue. My State has produced great wilderness thinkers and leaders, such as the writer and conservationist Aldo Leopold, whose ''A Sand County Almanac'' helped to galvanize the environmental movement; like Sierra Club founder John Muir; and like Sigurd Olson, one of the founders of the Wilderness Society.

Senator Clinton Anderson of New Mexico said that his support of the wilderness system was the direct result of discussions he had held almost 40 years before with Leopold. And then-Secretary of the Interior Stewart Udall referred to Leopold as the instigator of the modern wilderness movement.

For others, the ideas of Olson and Muir—particularly the idea that preserving wilderness is a way for us to better understand our country's history and the frontier experience—provided an important justification for the wilderness system.

I am privileged to hold the Senate seat held by Gaylord Nelson, a man for whom I have the greatest admiration and respect. He is a well-known and widely respected former Senator and two-term Governor of Wisconsin, and the founder of Earth Day. What I find so remarkable is that, even after a distinguished career in public service, he continues to work for conservation. He is currently devoting his time to the protection of wilderness by serving as a counselor to the Wilderness Society—an activity which is quite appropriate for someone who was a co-sponsor, along with former Senator Proxmire, of the bill that became the Wilderness Act.

I am proud of Wisconsin's part in making this legislation law, and I am proud to carry on that tradition through the Senate Wilderness Caucus.

I also wish to thank my colleagues the senior Senator from West Virginia, Mr. BYRD, the senior Senator from Massachusetts, Mr. KENNEDY, and the senior Senator from Hawaii, Mr. INOUYE, all of whom served in the Senate in 1964 and voted for the Wilderness Act.

That Act was the first piece of legislation in the world to preserve wild places. Forty years after the act passed, wilderness still enjoys widespread, bipartisan support. Just recently the Bush administration announced its recommendation for wilderness designation of the Apostle Islands National Lakeshore in Wisconsin, a place that is near and dear to my heart and to the hearts of many Wisconsinites. I thank my former staffer Mary Frances Repko, who for 9 years worked tirelessly to promote, protect, and push for a wilderness study for the Apostles Islands, and to preserve America's public lands.

In closing, I would like to remind colleagues of the words of Aldo Leopold in his 1949 book, ''A Sand County Almanac.'' He said, ''The outstanding scientific discovery of the twentieth century is not the television, or radio, but rather the complexity of the land organism. Only those who know the most about it can appreciate how little is known about it.'' We still have much to learn, but this anniversary of the Wilderness Act reminds us how far we have come and how the commitment to public lands that the Senate and the Congress demonstrated 40 years ago continues to benefit all Americans.

I yield the floor.

Mr. BYRD. Mr. President, I recently received a letter from Mrs. Margaret Baker of Hillsboro, WV, who wrote of ''how important wilderness areas are to the quality of life in West Virginia.'' Writing about West Virginia's Cranberry Wilderness Area, she explains that, in this special place ''you can take your children here and actually see what nature looks like when it's not in a neatly labeled museum exhibit, when the animals aren't in cages and the trees aren't trimmed into perfect little bricketts of shrubbery.''

Mrs. Baker's letter continues:

> My husband and I hike in the Cranberry Wilderness and always see something that is astonishing, a forest of ferns, an abstract art work of lichen or sunset colored mushrooms. You can see a picture of a wilderness area but unless you smell it, and feel the mud under your boots, experience the light shining on it and hear the birds and crickets, you can't really appreciate how amazing the offerings of the planet are. I think West Virginians have a duty to preserve this reminder of what is good and wholesome and worth being optimistic about in our world. Help keep West Virginia wild.

I share that letter today for several reasons. The first is that Mrs. Baker's letter gives me the opportunity to boast of the natural beauty of West Virginia, which everyone knows I like to do. One should not doubt that areas like the Cranberry Wilderness are both beautiful and unique. This incredible area of 35,864 acres of broad and massive mountains and deep, narrow valleys is the State's largest wilderness area.

As Mrs. Baker's letter so movingly indicates, visitors to the Cranberry Wilderness directly and vividly experience nature. Its wildlife includes black bear, white-tailed deer, wild turkey, mink, bobcat, numerous varieties of birds, and many species of reptiles. The waters of the Cranberry Wilderness are home to brook trout and several species of amphibians. Vegetation in the area includes spruce and hemlock at the higher elevations and hardwood trees such as black cherry and yellow birch and thickets of rhododendrons and mountain laurel in the lower terrain.

How exciting and rewarding it is to know that individuals like Mrs. Baker are able to use and enjoy this great wilderness. I certainly agree with Mrs. Baker that we ''have a duty to preserve this [and other] reminders of what is good and wholesome.''

That brings me to my second reason for sharing Mrs. Baker's letter with you. This year, 2004, is the 40th anniversary of the Wilderness Act of 1964, which was enacted to ensure that special places like the Cranberry Wilderness would be protected for future generations. In an era of ''an ever increasing population, accompanied by expanding settlement and growing mechanization,'' the Wilderness Act declared that we must secure the land where ''the earth and its community of life are untrammeled by man and where man himself is a visitor.''

My home State of West Virginia has certainly benefitted from the creation of wilderness areas, and the Cranberry Wilderness is just one of the five wilderness areas in my State. The others include Dolly Sods, Otter Creek, Laurel Fork North, and Laurel Fork South Wilderness Areas, and West Virginia remains wild and wonderful, in part, because of Congress's actions. Furthermore, our Nation's 662 wilderness areas have given Americans a freedom to explore. This freedom has been secured and protected so that future generations also may enjoy the beauty of God's creation.

Covered from end to end, and on all sides, by the ancient Appalachian Mountains, West Virginia is exquisite in its natural splendor. It is the most southern of the northern; the most northern of the southern; the most eastern of the western; and the most western of the eastern States. It is where the east says ''good morning'' to the west, and where Yankee Doodle and Dixie kiss each other goodnight.

It is only fitting that, on the celebration of the 40th anniversary of the Wilderness Act, we cast our eyes backward so that we might have insight into how to better prepare for future events. On a whole range of important issues, the Senate has always been blessed with Senators who were able to reach across party lines and consider, first and foremost, the national interest.

Our late colleague, Senator Hubert H. Humphrey was certainly such a person. He introduced the first wilderness bill in the Senate in 1956 and was there for its passage in 1964. Other former colleagues had this ability, including Senators Scoop Jackson, Clinton Anderson, Frank Church, Richard Russell, and Mike Mansfield. They understood the art of legislating, and they reveled in it. For this and other reasons, I am also honored to be associated with such Senators and to be the recipient of the Hubert H. Humphrey Wilderness Leadership Award that was presented to me earlier this month.

As we look back 40 years, we can see how the seeds of legislation have blossomed. This certainly rings true of the

passage of the Wilderness Act. Through four Congresses, Members on both sides of the aisle worked through the key challenges and made the right compromises rather than simply succumbing to the purely political tactics and rhetoric that seem to dominate today. The debate on the Wilderness Act should serve as a great example of how Members of both parties in the Senate and the House of Representatives can come together to pass historic pieces of legislation.

It is hard for me to believe that 40 years have passed since Congress first approved the Wilderness Act. It is also hard to believe that only Senators INOUYE and KENNEDY and I remain in the Senate as Members who voted for that original legislation. Yet today we can proudly say that the original designation of 9.1 million acres in that first bill has expanded to more than 105 million acres in 44 States. I believe that this landmark legislation should serve as a lesson for those who are seeking guidance regarding other important measures before this and future Congresses.

In closing, I am reminded of the immortal words of one of America's foremost conservationists and outdoorsmen, John Muir:

> Oh, these vast, calm, measureless mountain days, inciting at once to work and rest! Days in whose light everything seems equally divine, opening a thousand windows to show us God. Nevermore, however weary, should one faint by the way who gains the blessing of one mountain day: whatever his fate, long life, short life, stormy or calm, he is rich forever. . . . I only went out for a walk, and finally concluded to stay out till sundown, for going out, I found, was going in.

Mr. REID. Mr. President, I rise today to recognize the 40th anniversary of the Wilderness Act.

From the days of the earliest settlers, wilderness has always been a defining part of our national heritage. Simply put, the American wilderness helped shape the American values of freedom, opportunity and independence.

As it did in 1964, Nevada still contains many of the wildest and least traveled places in the lower 48 States. The remote and untamed areas of Nevada represent a reservoir of challenges and opportunities for hunters, fishermen, birdwatchers, photographers, and other outdoorsmen.

We all play a stewardship role, and I am proud of the job our nation has done and continues to do in upholding these uniquely American values.

In particular, I would like to recognize four individuals from my home State of Nevada who are true wilderness heroes.

Marge Sill has advocated protecting wild places for more than 4 decades. She worked to pass the 1964 Act, as well as every Nevada wilderness bill since then. Marge helped establish the Friends of Nevada Wilderness, which celebrates its 20th anniversary this year, and has mentored multiple generations of wilderness advocates.

Hermie and John Hiatt have been leaders in Nevada conservation efforts for more than 2 decades. Their tireless advocacy for wilderness and environmental protection particularly in southern and eastern Nevada serves as inspiration for many. Their interest in and knowledge of the science behind conservation serves Nevada well.

Finally I would like to recognize Roger Scholl, who played a key role in the development of the 1989 Nevada Wilderness Protection Act. In a quiet but effective and reasonable manner, Roger has consistently sought to develop consensus wilderness proposals. From Mt. Moriah and the Schell Creek Range in White Pine County to Mr. Rose and High Rock Canyon in Washoe County, Roger's work on wilderness issues has benefited Nevada and our Nation. His counsel has served me well.

Through the work of these Nevadans the number of Nevada wildernesses has grown from one, the Jarbidge Wilderness, to more than 40 in 40 years. I commend them for their work on behalf of Nevada and the Nation.

As President Lyndon Johnson said upon signing the Wilderness Act, ''If future generations are to remember us with gratitude rather than contempt, we must leave them something more than the miracles of technology. We must leave them a glimpse of the world as it was in the beginning.''

With stewards such as these four great Nevadans, If know that our Nation's great wilderness heritage will be secure for generations to come.

Mrs. BOXER. Mr. President, forty years ago this month, President Lyndon Johnson signed the Wilderness Act, which set aside some of the most quintessential American landscapes in this vast country. This visionary law first protected about 9 million acres of public lands. Today, as a result of a bipartisan commitment by successive Congresses and Presidents, 105 million acres of land are protected in 44 States.

California is blessed to have nearly 14 million acres permanently protected as wilderness for the public to enjoy and as a legacy for future generations. These areas include some of the most spectacular lands and diverse ecosystems, including forests, deserts, coastal mountains and grasslands.

Americans have long recognized the need to protect our public lands and their vast resources. John Muir, along with U.S. presidents from both parties, including Teddy Roosevelt, foresaw the need for us to protect these precious lands, lest they be lost forever.

Wilderness provides a place of refuge from urban pressures. Millions of Americans retreat to wilderness to fish, hunt, horseback ride, cross-country ski, hike and pursue other recreational breaks from everyday life.

Wilderness protects watersheds that provide clean water to our cities and farms. Forests cleanse our air and provide habitat for countless plant and animal species, many of which are endangered. Wilderness provides something else that is harder to measure, solitude and peace. California's population of nearly 36 million will balloon to 50 million in the next 20 years, so space will become even more precious.

I am pleased to cosponsor Senator FEINGOLD's resolution honoring the 40th anniversary of the Wilderness Act. I am also pleased to be the author of the California Wild Heritage Act, which would protect approximately 2.5 million acres of public lands as wilderness. The areas that would be protected by this legislation include: the King Range on the Lost Coast in Northern California; the White Mountains in eastern California, home to the ancient Bristlecone Pines; and Eagle Peak in San Diego County, which includes the headwaters of the San Diego River and is home to great plant and animal diversity.

These and many other areas deserve the protection that was envisioned back in 1964, when the Wilderness Act was signed into law.

I believe that our beautiful and varied landscapes help make us the people that we are. Today, we look back and are thankful for those who worked to set aside the rich tapestry that is our wilderness heritage. But looking back is not enough. We must also dedicate ourselves to securing the irreplaceable remaining unprotected wilderness areas as our legacy for those who follow us.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, how much time remains on the Democratic side?

The PRESIDING OFFICER. There is 11 minutes.

CHALLENGES FACING AMERICA

Mr. DURBIN. Mr. President, I thank the Chair for this opportunity to speak on issues that go to the heart of the challenges facing America and the challenge we face in the upcoming election. Is there one of us who can forget 9/11, where we were, how our lives were changed, how America was changed?

I was in this building, evacuated in panic as the White House was being evacuated, wondering what would happen next. Senators, Congressmen were dispersing in every direction, trying to find some safe place with all the visitors in the Capitol.

I remember, as well, what happened during the course of that day. By the evening time, after the President had spoken to our country, Members of the Senate and House, Democrats and Republicans, in a remarkable, unprecedented move, stood together singing ''God Bless America'' on the steps of our Capitol—a sense of unity, a sense of purpose, a determination to avenge those who had attacked the United States and to protect Americans here and abroad.

Recall how the world reacted. Countries that had been barely friendly to the United States stood up and said

they would be on our side in the war against terrorism, stood up and said they would help us to make sure such an attack never occurred again, a broad coalition of countries standing behind the United States, many of these same countries we had helped in years gone by. Now they were prepared to help us.

We came here on Capitol Hill and in a matter of hours did two very important things. First, we declared war on the clear enemy of the United States, al-Qaida. Of course, the Taliban in Afghanistan became the focus of our military effort. It was a bipartisan vote, an overwhelming vote. There were no partisan speeches. We were together. We had identified the enemy. We were moving forward. We were not going to forget what happened on 9/11 even as we buried our dead and honored the wounded and the heroes of America.

And then think what happened next. We said to our Government: We are going to give you the tools and resources you need to fight this war against terrorism, to wage this war in Afghanistan. Again, we stood in a bipartisan fashion.

It is hard to believe that was only 3 years ago. It seems like so much longer. What has happened in the meantime? Take a look around at the United States and the world community. Countries that stood with us after 9/11, determined to help us, have walked away from us. Americans who were determined to work together are divided. We find ourselves with scarce resources to really attack the enemies of the United States. We find ourselves counting the dead and wounded on a daily basis, with no end in sight.

What has happened to make the difference? What has happened is a decision by this administration to lose focus, to stop this intensive effort against the enemies of 9/11 and instead to wage a war in Iraq—a war which sadly goes on and on every single day, with no end in sight. For some in the administration, it was an answer to a prayer; 9/11 was the reason and the excuse that was needed to attack Iraq. This irrational passion to go after Saddam Hussein in Iraq, whatever the threat against the United States, has led us to a point where we find so many of our best and brightest and bravest Americans dying and facing severe injuries and wounds in Iraq every single day.

When the war began in Iraq, I said I wanted to call every family in Illinois who loses a soldier. I have not been able to do that. Some I could not get through to. I have to tell you, there is a stack of six names on my desk. Over 50 Illinoisans have been killed in this war and there is no end in sight.

I spoke to another family yesterday, the family of a 28-year-old marine from Pana, IL, a wonderful young man who was dedicated to this country. He lost his life a few days ago. How many times that story has been played out over and over again—over a thousand times American soldiers killed, over 7,000 gravely wounded.

I have been to Walter Reed and I have seen them with arms blown off, legs blown off, loss of both hands, head injuries, blinded, paraplegics. These are the wounded who come back from Iraq.

What do we know today? We know the case made by the Bush administration for the invasion of Iraq was wrong. We know the information given to the American people to justify the invasion of this country was wrong. How do we know that? The Senate Intelligence Committee, in a bipartisan report, came up with the clear conclusion that our intelligence was just plain wrong.

When the President told us we would find an arsenal of weapons of mass destruction, over a year and a half later we have found none. When the President told us we would find a stockpile of nuclear weapons threatening the Middle East and the United States, we have found none. When the President told us there was a linkage between Saddam Hussein and al-Qaida, the attackers of 9/11, we have found none. The list goes on and on.

The President has come back and retracted statements he made in the State of the Union Address, incorrectly saying that fissile materials, nuclear materials, were sent from Africa to Iraq. So the information given to the American people to justify the war turned out to be wrong.

Now, the question is, How were the American people misled? Was it deliberate? I personally believe that unless there is clear, credible, and convincing evidence that the President and his administration knew the information was wrong, you cannot say it was a deliberate deception of the American people. But this much you can say: People within this administration who continue to parrot these lines they know are false are, frankly, not only doing a great disservice to the American people, they have a wanton, reckless disregard for the truth.

Let me give you some quotes to back that up, so you understand what we are talking about. This is a statement made by President Bush at a press conference a few months ago:

> The reason that I keep insisting there was a relationship between Iraq and al-Qaida is because there is a relationship between Iraq and al-Qaida.

Look what Secretary of State Colin Powell said a few days ago:

> I have seen nothing that makes a direct connection between Saddam Hussein and that awful regime and what happened on 9/11.

That is his own Secretary of State who says the President is not telling the American people the facts.

Look at the 9/11 Commission report. This is a report prepared on a bipartisan basis, which has been lauded by everybody in Congress. This is what they say:

> We have no credible evidence that Iraq and al-Qaida cooperated on attacks against the United States.

Yet if you ask the American people, they will make the following argument: It is far better for us to be fighting terrorism in al-Qaida over there than to be fighting it here in the United States. These conclusions by the 9/11 Commission and Secretary of State Colin Powell tell you that statement is just plain wrong.

We are not fighting al-Qaida in Iraq. The al-Qaida forces, as Senator KENNEDY said earlier, have metastasized around the world. They are a threat to all of us.

Let us tell you what we know for sure. We have lost international cooperation in Iraq; the same cooperation that was there to help us fight terrorism is gone. Our coalition continues to dwindle and the losses are to American troops; 95 percent of those killed and wounded are American soldiers. If you want to know who is waging the war, how much commitment is being made by this coalition, that statistic tells it all.

Secondly, we were unprepared, we were not prepared, our troops did not have the necessary equipment and even training for what they faced after the initial military victory in Iraq.

Over the weekend, back home, officers in the Illinois National Guard told us their units are being asked to do things far beyond their training capability. We know our troops went into battle in the aftermath without the necessary body armor and that the Humvees were not properly equipped for what happened in Iraq. We know our helicopters didn't have the necessary defense equipment—this from an administration that received every penny it asked for from Congress to wage this war.

This Commander in Chief did not stand up for our troops, was not prepared to defend our troops, and we have seen what resulted: over 1,000 dead, over 7,000 wounded.

There is no end in sight.

There is a litany of quotes from Senator HAGEL, Senator MCCAIN, Senator LUGAR, and so many others on the Republican side who have joined on the Democratic side to say that, clearly, we are not winning the war in Iraq. This Commander in Chief cannot crow and brag about the great job in Iraq. We are there with no end in sight.

We have found now that we have been misled in going into Iraq, and we continue to be misled by statements from this administration about the reason for the war and what we can expect its outcome to be.

There are many who argue that JOHN KERRY should not be elected President because he cannot come up with a plan to extricate us from this complicated mess in Iraq. That, to me, is a curious position. This President, President Bush, drove our national bus into a cul-de-sac and now he can't turn it around, and he blames JOHN KERRY because he cannot explain how President Bush can get us out of this mess in Iraq.

What is wrong with that picture? This is a decision by President Bush to invade before the inspections were completed, before the U.N. had an opportunity to join us, to invade before the facts were in. The invasion took place and our military did its best. They are the best in the world. They conquered Saddam Hussein, but they left us in a position of vulnerability, with no end in sight. That is the choice facing American voters on November 2.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

Mr. LIEBERMAN. 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.

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

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

NATIONAL INTELLIGENCE REFORM ACT OF 2004

The PRESIDING OFFICER. 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 the intelligence and intelligence-related activities of the U.S. Government, and for other purposes.

Pending:

McCain amendment No. 3702, to add title VII of S. 2774, 9/11 Commission Report Implementation Act, related to transportation security.

Wyden amendment No. 3704, to establish an Independent National Security Classification Board in the executive branch.

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

AMENDMENT NO. 3705

Ms. COLLINS. Mr. President, last evening, on behalf of myself, Senator CARPER, and Senator LIEBERMAN, I offered an amendment to rewrite the formula for the Homeland Security Grant Program. The amendment we brought before the Senate was unanimously reported as a separate bill by the Governmental Affairs Committee.

We should always keep in mind that should there be another terrorist attack on our country, people will be calling 911; they will not be calling the Washington, DC, area code. It is our first responders—our firefighters, our police officers, our emergency medical personnel—who are always on the scene first. We know that from the tragic attacks of 9/11, and, as Secretary Ridge has pointed out many times, homeland security starts with the security of our hometowns. For this reason, we have come together in a bipartisan way, representing large States and small States, to draft the Homeland Security Grant Enhancement Act, and we have offered it as an amendment to this bill. It would streamline and strengthen the assistance we provide to our States, communities, and first responders who protect our homeland.

The underlying Homeland Security Act contains virtually no guidance on how the Department of Homeland Security is to assist State and local governments with their homeland security needs. In fact, the 187-page Homeland Security Act mentions the issue of grants to first responders in but a single paragraph. The decisions on how Federal dollars should be spent or how much money should be allocated to home were left to another day when Congress enacted that important legislation, but it is now time for Congress to finally address this critical issue.

We know that much of the burden for homeland security has fallen on the shoulders of State and local officials across America, those who are truly on the front lines. In crafting the amendment before us, the Governmental Affairs Committee listened first and foremost to our first responders. We held three hearings on this vital topic and negotiated for 2 years to produce the amendment that Senator CARPER, Senator LIEBERMAN, and I are offering. The bipartisan measure was approved by the Governmental Affairs Committee by a 16-to-0 vote, and it currently has 29 cosponsors, including the distinguished Presiding Officer.

There are several groups that are active with first responders who are supporting our legislation. They include the National Governor's Association, Advocates for EMS, National Council of State Legislators, Council of State Governments, the National Association of Counties, the National League of Cities, and the Fraternal Order of Police.

As you can see, Mr. President, our approach has widespread support. It is supported by Senators from big States, such as Michigan and Ohio—and I want to particularly commend the Senators from those States for their hard work on this legislation—and small States, such as my home State of Maine and the State of the Senator from Delaware.

The wide breadth of support demonstrates the balanced approach our amendment takes to homeland security funding. It recognizes that threat-based funding is a critical part of homeland security funding. It does so by almost tripling the homeland security funding awarded based on threat and risk. This has been a particular concern to Senator CLINTON, who has brought this issue before the Senate a couple of times.

The amendment, however, also recognizes that first responders in each and every State are on the front lines and have needs. Therefore, the bill maintains a minimum allocation for each State.

The legislation will also improve the coordination and the administration of homeland security funding by promoting one-stop shopping for homeland security funding opportunities. It establishes a clearinghouse to assist first responders and State and local governments in accessing homeland security grant information and other resources within the new department. This clearinghouse will help improve access to information, coordinate technical assistance for vulnerability and threat assessments, provide information regarding homeland security best practices, and compile information regarding homeland security equipment purchased with Federal funds.

Establishment of these improvements will mean first responders can spend more time training to save lives and less time filling out unnecessary paperwork.

This amendment will establish a fair and balanced approach to allocating this critical funding. I am very pleased to have worked with the Senator from Delaware on this and I yield to him for any comments he might have, unless, of course, the ranking member would like to speak first.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I appreciate the recognition. Senator COLLINS and I have to go a short walk to a meeting, so I take this opportunity and use it briefly to rise in support of the Collins-Carper amendment submitted by the chairman of the committee and the distinguished Senator from Delaware, who worked very hard on this very important topic and area before the 9/11 Commission Report was assigned to the Governmental Affairs Committee.

This is an important addition to the National Intelligence Reform Act, the underlying proposal that came out of our committee last week, because it would help ensure that in these dangerous times the needs of our States and local first responders are met in a reasonable and coordinated way.

In the past 3 years since September 11, beginning on September 11, our first responders and preventers have made real progress in boosting America's preparedness to deal with the threat of terrorism. But as an independent task force of the Council on Foreign Relations found last year: the United States has not reached a sufficient national level of emergency preparedness and remains dangerously unprepared to handle catastrophic attack on American soil—dangerously unprepared. That I take to refer particularly not to the law enforcers, who are the first preventers, but to the capacity of our total response system at the local and State level to respond to a catastrophic attack.

This amendment, unanimously approved by a total nonpartisan vote in our committee, is an important first step in ensuring that our local first responders get the resources they need.

First, this amendment simplifies the existing homeland security grant process by creating an interagency committee to coordinate Federal requirements for homeland security planning and reporting, and it eliminates redundancies. It would establish a clearinghouse to offer local communities one-stop shopping for information on available Federal grants.

Second and most important, this amendment would reform the way homeland security grant money is currently distributed.

In crafting these funding provisions, the committee acted consistent with the recommendation of the 9/11 Commission to significantly increase the amount of homeland security funding distributed based on threats but, the judgment we reached, not to eliminate a minimum amount to go to every State. The reason for that is unfortunately the reality of the terrorist threat and the nature of our terrorist enemies. Yes, they have shown they will strike at visible national symbols, that to some extent they will focus on big cities, but the fact is that anyone who pays attention to the terrorist mode of operating around the world will see what they also do is to strike at unpredictable, undefended, vulnerable targets.

Remember, these people do not hold themselves to any rules of civilized or humane behavior, so they have no hesitancy to put a bomb on a bus occupied by families, men, women, children; to attack a school and wantonly slaughter children, in some cases their teachers. In a reality such as this, gruesome and chilling as it is, the fact is every part of America needs some help from the Federal Government in getting itself prepared to prevent and respond, and that is exactly what this amendment would do.

I continue to believe that this part of our own domestic army of preventers and responders in the war on terrorism is not adequately funded. This amendment does not of itself change that, but it does represent a sensible bipartisan approach and goes a long way to ensuring that whatever funding we do provide—and I hope that number will increase—is allocated in a manner that is best designed to protect all of the American people.

I thank Senator COLLINS and Senator CARPER for the extraordinary work they did on this issue in our committee. Senator CARPER, characteristic of himself, took hold of a complicated problem with difficult political ramifications to it but a real critical national need attached to it and worked very hard to bring about this result, which I feel very strongly deserves the overwhelming support of Members of the Senate.

I thank the chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, before the Senator from Delaware makes his comments, I ask unanimous consent that the Senator from Minnesota, Mr. COLEMAN, be added as a cosponsor to the underlying bill, S. 2845, and that he also be added as a cosponsor to the pending amendment.

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

Ms. COLLINS. Mr. President, the Senator from Minnesota has been one of our most diligent committee members in attending all of the hearings we held throughout the August recess. He was an active member of the committee throughout the debate on this legislation, and I am very grateful to have his support and cosponsorship.

I say to the Senator from Connecticut that I think along with the cosponsorships we picked up yesterday, this is a sign that as people look at our legislation and learn more about it, it is gaining even more support.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, before the chairman of our committee and Senator LIEBERMAN head for their meeting, I want to say in plain view of everyone how proud I am of the leadership they have provided to our committee. At a time when much of Washington, DC, was taking the month of August off, they made sure that our committee did not. At a time when most Senators were scattered around the world, the country, and back in their own States, they made sure we were here, and not just for any purpose but to participate in a series of excellent hearings.

I believe, and correct me if I am wrong, we have had a total of eight hearings thus far in the last month on this subject, from all kinds of people within the CIA, folks who have been National Security Advisers, Secretaries of Defense, Secretaries of State, Secretaries of Homeland Security. We have heard from the Commissioners themselves, the cochairs of the Commission, and from their senior staff. It has been an extraordinary education. It has taken me a while to get my arms around these issues. As we finished our markup, I said to both Senator COLLINS and Senator LIEBERMAN that a lot had not been clear to me as we went through the course of those hearings, but as we went through the course of the markup a number of issues, questions that had not been in focus for me, came into focus.

I thank you for providing this extraordinary month and a half for us to prepare to offer this package to our colleagues in the Senate. You have done really good work. We are proud of you.

Mr. LIEBERMAN. Thank you.

Ms. COLLINS. Will the Senator yield on that point?

Mr. CARPER. I am happy to yield.

Ms. COLLINS. I thank the Senator for his generous comments. I know Senator LIEBERMAN joins me in commending the Senator from Delaware for his active participation in our hearings. I believe the Senator from Delaware, as the Senator from Minnesota, made an extraordinary effort to be there, to question the witnesses, and all of us now quote the Senator from Delaware in various places and occasions, in reminding our colleagues that:

> The main thing is to keep the main thing the main thing.

Those words have become inexorably linked to the debate on intelligence reform. We thank the Senator for that as well.

Mr. CARPER. Mr. President, the record should show those words should not be directly attributed to me. They are actually the words of a recently departed minister, Methodist minister from our State, Brooks Reynolds, who would have been 89 years old on election day. He used to give the opening prayer at the Delaware General Assembly. We would convene every January. Among the things he would say to all of us who would gather there in Dover in the legislative hall:

> The main thing is to keep the main thing the main thing.

With respect to the underlying legislation, we have done a good job of doing that. What we have come up with is legislation that I think is well designed to ensure that key decision-makers—be it the President or the President's Cabinet, those of us who serve in the House and Senate, those who serve in the intelligence communities themselves—that we have the information we need to have, we have it in a timely way, and that we have the information objectively. That will enable us to better protect this country from terrorism in the 21st century. That is the main thing, and I believe the legislation before us today really does help us keep the main thing the main thing.

I wish to say a word or two, if I may today, about the amendment Senator COLLINS and I have offered. It seeks to address the issue of how to allocate funds to first responders, and to also enable the system of distribution that we have to move forward with a little less difficulty, a bit more smoothly, and maybe somewhat more efficiently.

First, I wish to say how much I have enjoyed working with Senator COLLINS. We have worked on it well over a year, and to express thanks to my staff and especially to John Kilvington on my staff for the great work he has done with me and with Senator COLLINS's team.

What we seek to do with this amendment before us today, I say to my colleagues, is to make a series of much needed reforms to the state of the Homeland Security Grant Program. As many of my colleagues are aware, funding under the State Homeland Security Grant Program today is distributed somewhat arbitrarily. Much of the money that is made available for grants each year is distributed on a per capita basis. It is based on a formula that is actually included in the PATRIOT Act.

Some have criticized our current homeland security grant formula saying it shortchanges larger States such as New York that are at the most risk for attack. I agree. No one here, though, disputes the fact that States such as New York and California deserve the biggest share of Federal funds.

But let me say clearly that funding should not be based on population alone. This may come as a surprise to some of you from big States such as Minnesota or Wyoming, but my home State of Delaware is not very big but we still have major vulnerabilities. We have a significant port on the Delaware River, the Port of Wilmington. Through that port, frankly, more bananas come than any other port on the east coast—grapes, Chilean fruit, and steel. Delaware has been known through its history as the chemical capital of the world, home to major companies such as DuPont and Hercules and others. We have a number of plants that dot the landscape. Delaware is a financial center for our country, in downtown Wilmington, DE.

A lot of people go through Delaware. If you do, you probably know I–95 passes through Delaware, one of the busiest highways in the country. Interstate 495 does as well. The Northeast corridor for Amtrak passes through Delaware. Both freight railroads, CSX and Norfolk Southern, two of the busiest railroads in America, pass through Delaware.

To our east, we have the Delaware River, a heavily trafficked river with some cargo, including some hazardous cargo that goes through our States, between our State and New Jersey on that river. On the other side of the Delaware is New Jersey and there is a nuclear powerplant in Summit, NJ. All of these factors tend to make our State a not unattractive target for terrorists.

We need to make sure that whatever we do, we protect States such as Delaware that may not be the most populous but do have real safety and security concerns. I believe—I might be wrong, but I believe with this amendment we have found a way to do that without shortchanging our sister States around the country.

The 9/11 Commission rightly pointed out that the current grant formula simply does not direct the Federal Government's scarce homeland security resources to the States and localities that need it the most. They called on Congress to create a new formula based on an assessment of threats and vulnerabilities that take into account real risk factors such as population density and the presence of critical infrastructure.

Our amendment does just that. The formula we have crafted ensures that the majority of Federal first responders' aid each year goes to the States most vulnerable to attack. In my judgment and the judgment of my colleagues, our cosponsors, the formula is a fair one. It would ensure that big States such as New York and California and smaller, less populated States such as Delaware, or less populous States such as Wyoming or Minnesota, receive our fair share of Federal homeland security dollars.

Large States will do much better under this formula in the amendment than they do under current law. This is especially true for States with large, densely populated cities or those that are located along an international border. It is my hope that this amendment will also better account for needs in States such as Delaware that have small populations but are located in risky parts of the country and have other significant vulnerabilities.

In addition, our amendment gives the Secretary of Homeland Security the authority to distribute a portion of each year's grant funding directly to large cities such as New York or Washington, DC, where we are gathered today, to help them meet their unique security needs.

We do all of this while preserving the small State minimum set out in current law. This will ensure that small States such as ours will continue to receive the resources they need, that we need, to protect our citizens from potential terrorist attack.

In addition to these important formula changes which have been alluded to by both Senator COLLINS and Senator LIEBERMAN, our amendment makes this Homeland Security Grant Program much more user friendly.

I don't know if our Presiding Officer or my colleague from Minnesota talked to their Governors recently or their mayors. Senator COLEMAN was once a mayor so he could be talking to himself on this one, I suppose. But any of us talking to our Governors or mayors or first responders over the last couple of years know how inefficient this program can be and how frustrating it can be to deal with. Under the current system, anyone seeking a grant is faced with, believe it or not, a 12-step application process—12 steps. Once this process is complete, first responders then have to sit around and wait, sometimes for months, before they see that first dime.

Our amendment dramatically streamlines this process; shortening the 12-step application process to 2 steps, requiring that States pass grant funds down to the local level within 60 days of receipt. Our amendment also ensures that cities and local governments are involved in their State's planning and application process. Our amendment also includes an important provision giving States significant new flexibility to use first responder aid they receive to meet their most pressing security needs.

Under the current system, States are given funding in four categories: No. 1, planning; No. 2, training; No. 3, they can use this money for exercises, and, No. 4, for equipment purchases. The States must spend a certain amount of money in each category, even if their homeland security plan calls for a different spending plan.

We propose, on the other hand, to give States the ability to apply for a waiver that would allow them to use unspent training money, for example, to purchase needed equipment, if that is where their needs were to lie or, frankly, the converse could be true.

Finally, our amendment creates a one-stop shop within the Department of Homeland Security. That one-stop shop would enable applicants to obtain grant information and other assistance. It also lays the groundwork for future reforms by authorizing a major review of all existing homeland security-related grant programs.

As part of this review, an interagency committee will look at planning, will look at application and paperwork requirements in an effort to ensure that the different programs are coordinated and do not impose duplicative requirements on applicants. The committee would then make recommendations for changes aimed not at eliminating programs but at making sure all of those programs work together in a coordinated fashion with as small an administrative burden on applicants as possible.

In conclusion, this amendment is based on bipartisan legislation reported out of the Governmental Affairs Committee unanimously this past June. It is a product of more than a year of debate on that committee about how we could better serve our first responders. The amendment enjoys the support of Democrat and Republican Senators from both large States and from small States, and when we have the opportunity to vote on this amendment, I will certainly urge our colleagues to vote for its adoption.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, I want to congratulate my colleague, the Senator from Delaware, for the outstanding work he has done on this amendment and, in fact, as the Senator from Maine noted, his work involved in the series of hearings that we had to allow us to come before this body with a piece of legislation that will make America safer.

If I may reflect first on the process of the underlying bill, we had a series of I believe eight hearings. Sometimes folks say we move too slow in these hallowed halls. There was a concern that in less than 2 months we would come before this body with a bill that provides major restructuring of the way in which we handle the threat of terrorism in this country, that some might say we moved too hastily. But one wouldn't say that if they observed the process.

Within those eight hearings, we had a wellspring of information. We heard from heads of the CIA in the 1970s, 1980s, and 1990s across party lines. I think of that hearing. We talked about the ''three wise men'' who came before

us. We heard from agents who were active in the field in hearings that were not open to the public in which in fact the names of the agents themselves were still kept confidential. We heard from members of the Commission. We heard from representatives of the families of the victims.

It was for me, relatively new in this body, who served as a mayor, as the Presiding Officer has served as a mayor, and involved in politics at what I call the bottom of the political food chain, a fascinating educational experience. I learned a lot. I think my colleagues, no matter how long they were in this body, learned a lot. We have all learned a lot in the post-September 11, 2001 world.

As a result of what we heard, we come before this body with some needed reform—reform that has broad bipartisan support. I believe the process we used represents the best of what this body is all about, working in a bipartisan way dealing with some difficult issues, issues of life and death, truly life and death, coming to some conclusions, and in the end making America a safer place.

I associate myself with the comments of my colleague from Delaware as he talked about the process because I shared that experience.

I also want to talk about the underlying amendment, the Collins-Lieberman-Carper amendment, again from the prospective of a former locally elected official who appreciates one-stop shopping. When I was dealing with licensing in the city of St. Paul, one of the things we did was set up one-stop shopping so folks didn't have to go to 16 different places to fill out where the application was, what had to be in it, who you had to talk to, and it made a difference. I talked with our consumers. I know because I talked to them. When you are mayor and go down the street, people will grab you by the elbow and tell you about the experience. They appreciated it.

With a matter as complex, as serious, and as profound as dealing with the issue of homeland security in a time when our Nation faces threats of terrorism, we managed in this amendment to do a number of things which I believe are very helpful. We simplified a process. We have taken something that was a 12-step process and made it a 2-step process.

We have accelerated the process requiring States to provide 80 percent for the homeland security resources they receive at the local level within 60 days without moving the money forward. There are needs out there. People deserve to know that the resources are there.

We provided flexibility, targeting the most vulnerable areas, and also making sure that all parts of the country and all States have an opportunity to do what needs to be done to provide a greater measure of safety against the threat of terrorism.

Minnesota is a big State. Wyoming is a big State geographically, but not a big State in population. Much of the area of Minnesota is rural. Yet within the State of Minnesota, which is a big State but not a highly-populated State, with about 5 million people, we have the Mall of America, probably one of the most frequented tourist places in the United States. Every year 35 million people visit the Mall of America.

We have, of course, the Mississippi River in Minnesota which starts as a little stream right up there in Itasca and becomes the great Mississippi of legend, of Mark Twain, and eventually finds its way to Louisiana and into the gulf.

Along the Mississippi, we have a nuclear powerplant on an Indian reservation, the Prairie Island Reservation right on the Mississippi River in Minnesota. We have Duluth, which is located on Lake Superior, which is the gateway to the Great Lakes and transatlantic shipping.

We have miles and miles of border between Minnesota and Canada, a border that is not heavily populated, that is easily crossed, a border which in certain conditions is pretty tough to police. It is pretty tough up in International Falls where it is minus 28 or 30 degrees Fahrenheit without wind chill. Border agents up there have to learn how to pull a trigger on a pistol when it is very cold. It is not that easy. They have to learn how to use snowmobiles and float planes, and all sorts of things that may not be seen in other parts of the country.

But we face challenges. Obviously, we heard from Delaware, and the Presiding Officer would be on the floor now talking about Wyoming. He would talk about the challenges that are faced there.

This is an amendment that provides the targeting of resources in the areas where clearly there is the greatest threat but provides the needed flexibility so that places such as International Falls in Minnesota or the Mall of America or a nuclear powerplant on the Mississippi River can also be protected.

This is an amendment that is a product of the process I talked about. It has bipartisan support. It has the support of Senators from large States and small States. It is something I believe my colleagues will and should overwhelmingly support.

I am honored to speak on behalf of this amendment and to urge its adoption. In doing so, I truly believe it will make this country a safer place and it will make it easier and make it quicker. It will make it much more practical for folks throughout this country to access the funds they need to provide a greater measure of protection against the threat of terrorism.

Mr. President, I yield the floor.

Mr. CARPER. 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. COLEMAN. 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. COLEMAN. Mr. President, I would like to address two provisions in the underlying bill that were the subject of much debate, much discussion during our hearings on the 9/11 Commission recommendations. One of them had to do with the recommendation as to whether the national intelligence director should serve at the pleasure of the President or should serve a fixed term.

The 9/11 Commission recommended that the national intelligence director serve at the pleasure of the President. Some observers, however, have suggested that making the NID serve a fixed term would help preserve the independence of the national intelligence director. The Collins-Lieberman bill creates a NID who will be appointed by the President, confirmed by the Senate, and who will serve at the pleasure of the President. This is one of those discussions where the words of the Senator from Delaware ring true: the importance of making sure we keep the main thing the main thing.

We had come before us, as I indicated earlier, three former Directors of the Central Intelligence Agency: William Webster, James Woolsey, and Stansfield Turner. Each of them testified that among all the powers of the NID and the variables we needed to consider when deciding whether to create a national intelligence director, the most important quality, the most important variable for the national intelligence director to be effective is to have the support of the President of the United States.

The national intelligence director will be responsible for overseeing a broad range of intelligence functions and operations in this country. His ability to provide that kind of leadership and direction in many ways will be contingent upon having the support of the Commander in Chief, having the support of the President of the United States.

Robert Mueller, who served a 10-year term as FBI Director, testified that the NID should serve at the pleasure of the President. Director Mueller distinguished the FBI, which is expected to be an independent investigative agency, from the office of the NID, which will be responsible for advising the President on intelligence matters, and that advice will be shaping the President's policy decisions. Among the responsibilities of the NID is to be the principal adviser to the President himself.

Some believe that having the NID serve a fixed term could help insulate the national intelligence director from political pressure. However, what it would do is to insulate the national intelligence director from the President. We cannot afford, in these difficult and

challenging times, at a time when America is under the threat of terrorist attack, to have the national intelligence director marginalized by a President who does not trust the national intelligence director.

The national intelligence director will be one of the most powerful individuals in the U.S. Government, and he will be one of the President's closest advisers. As such, the President has to be able to select his own national intelligence director. And all those in the intelligence operations, all those in other branches of Government who are involved in intelligence gathering, intelligence processing, and intelligence formulation of operation need to understand that the national intelligence director has the absolute confidence of the President of the United States.

There are a number of alternative mechanisms to protect the objectivity and the independence of the national intelligence director. But, again, I think it is critically important that the national intelligence director have the support of the President. And those thoughts are not just the thoughts of this Senator, but they were the expressed opinions of three former Directors of the Central Intelligence Agency who came before our committee and the opinion of the current head of the FBI who himself has a 10-year term.

One of the other issues that was the subject of a great deal of discussion and focus was what type of authority the national intelligence director should have to develop and execute the budget for national intelligence. It was said many times, whoever controls the money has the power.

We have made a judgment in this bill to have a strong national intelligence director, a national intelligence director who has the confidence of the President of the United States, but also a national intelligence director who will have control over the development of the budget for the national intelligence program, including the authority to coordinate, prepare, direct, and present to the President the annual budget for the national intelligence program.

This bill gives the NID the authority to manage and oversee the execution of the national intelligence program, including visibility and control over how money is spent. It ensures that the core national intelligence agencies—the CIA, NSA, NGA, NRO, FBI Office of Intelligence, and the Department of Homeland Security Directorate of Information Analysis and Infrastructure Protection—are entirely within the budgetary authority of the national intelligence director. And it gives the national intelligence director influence over the budgets of intelligence-related activities and organizations that are outside the national intelligence director.

Our approach is consistent with the recommendations of the 9/11 Commission, which said the NID must be given—and I quote—''control over the purse strings,'' including the power to submit a unified budget for national intelligence, to receive the appropriation for national intelligence, and to apportion the funds to the appropriate agencies in line with the budget.

The Commission viewed these budget authorities as absolutely essential to achieve the objectives of intelligence reform. One of the chairs of the Commission, Mr. Hamilton, said:

> We would not create the national intelligence director if he or she did not have strong budget authority.

Former Directors of the Central Intelligence Agency who testified before our committee also supported giving the national intelligence director strong budget authority.

William Webster, who was both head of the CIA and the FBI, said:

> Control of the budget is essential to effective management of the intelligence community.

James Woolsey, former Director of the CIA, said:

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

Again, who controls the money has the power.

As Chairman Hamilton said: The Commission would not have created a national intelligence director if he or she did not have strong budget authority.

Senior officials in the Office of the Director of Central Intelligence also believe that stronger budget authority is needed in order for the national intelligence director to truly be in charge of the intelligence community.

John McLaughlin said the person responsible for the intelligence community should ''have full authority to determine, reprogram and execute all funding for the core national intelligence agencies, principally CIA, NSA, the NGA and NRO.''

On and on, the advice the committee received was very clear: If you want to have a strong national intelligence director, you must give him or her strong budget authority.

Consumers of intelligence also testified that it would be desirable for the national intelligence director to have strong budget authority. Secretary of State Colin Powell, at the hearing of our committee on September 13, 2004, said:

> The [Director of Central Intelligence] was there before, but the DCI did not have the kind of authority [needed]. And in this town, it's budget authority that counts. Can you move money? Can you set standards for people. So you have access to the President? The [national intelligence director] will have all of that, and so I think this is a far more powerful player. And that will help the State Department.

Some of those who have brought a different perspective have said that the Director of Central Intelligence already has the needed authority but simply has failed to use it, and that if budget execution authority is needed, it should be given to the national intelligence director by Executive order.

With respect to the NFIP budget, the testimony before our committee—much of it in closed session—demonstrated that the Director of Central Intelligence authorities in practice are considerably weaker than they might appear on paper. So what we heard was how things work in the real world. What we heard was the day-to-day reality of how authority can be used, how it can be challenged. If it is not crystal clear, if it is not absolutely clear, if it is not unequivocal, as laid out in this bill, then, in fact, it may not in practice be as strong as one would desire.

The testimony also demonstrated considerable confusion about the actual extent of the Director of Central Intelligence legal authority which I found to be quite interesting. We would have before us various members of the intelligence community, and there would actually be a cross-discussion going on as to whether there was, in fact, this authority that one person believed was there but that the other person didn't believe was there. What we do in this bill is to get rid of the confusion and make it clear. We clarify any ambiguity in the existing language and make unmistakably clear Congress's intent that the national intelligence director, not the Department heads, will have the final say in developing the national intelligence budget.

With respect to receiving the appropriation and budget execution, the Director of Central Intelligence clearly does not have these key authorities today. Neither the administration nor we believe these authorities could be given to the Director of Central Intelligence, much less the national intelligence director, which has not yet been created by Congress, without congressional action.

There is simply no excuse for Congress not to act. This bill provides the kind of action that was clearly laid out before our committee as needed, as supported by those both in the intelligence network and the system, those who are making the decisions and those who are working with the decisions that are being made.

I do hope this body supports the recommendation of the Commission, the recommendation that is part of the bill before us.

Mr. President, I ask unanimous consent that at 2:15, the Senate proceed to a vote in relation to the McCain amendment No. 3702, with no second degrees in order to the amendment prior to the vote; provided further that there be 2 minutes of debate equally divided prior to the vote. Finally, I ask consent that following the vote, Senator STEVENS be recognized in order to make a statement.

Mr. REID. Mr. President, would the Chair indicate, there are still two additional amendments that are pending?

The PRESIDING OFFICER. Under the Senator's request, there is just one amendment.

Mr. REID. I understand the unanimous consent request talks about one amendment, but if we dispose of that amendment, there would still be two amendments pending.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I would hope that following Senator STEVENS's statement, we could make arrangements to vote on those two as early as possible this afternoon and move on to other matters on this bill. All of these matters have been debated thoroughly. I would hope that after that, the majority leader can arrange a time to vote on these amendments. We are ready over here. No objection.

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

Mr. COLEMAN. We will talk to the Members over the lunch hour and see if we can work this out.

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

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

HOMELAND SECURITY

Mr. SCHUMER. Mr. President, I am here today on the eve of the debate that will be occurring on Thursday evening. I know most Americans will be watching. I think they are probably the most important debates, certainly, since the Kennedy-Nixon debate, which was the first one.

The issue, of course, is related to the security of the country. I am going to focus my few remarks on security here at home, in terms of homeland security.

Whatever you think of the war on terror abroad—and there are many different views and we will hear some of those on Thursday night—my view—and I tend to be hawkish—is that hawks should be as angry or more angry with the President than doves, because the bottom line is that Iraq wasn't thought through. We don't have a plan and there is nowhere really to go. The idea of keeping faith and saying, well, there will be elections in January and that will make everything better, that is similar to the idea that we will win the war in 3 weeks and that will make everything better. It is simply not thought through and there are all these chimerical sort of wishes and hopes.

First, the election will not be held in many parts of the country. Second, I don't think it is going to make the basic problems go away. A devastating commentary on the war in Iraq is that we have been unable to spend money on infrastructure. One of the whole theories is that we were going to rebuild the country and show the Iraqis a better life. Because the terrorists who are there—who are despicable—have been able to do so much in terms of sabotage and criminal activities, in terms of taking those workers who would rebuild Iraq and treating them so brutally, it has made it basically impossible to rebuild. The President and his administration admitted as much when they took back the money for rebuilding and are now putting it into security.

Again, what everyone thinks about the war overseas—and there are many different views, and I believe JOHN KERRY will enunciate a view that is far more consonant with the American people than what President Bush has done so far. I say that as somebody who supported the $87 billion and the vote to go to war, because I believe we need a strong, aggressive foreign policy.

I believe the war on terror is the vital discussion of this decade and of our generation, probably. To win the war on terror, you need a good offense and a good defense. On defense, I regret to say, basically, this administration has not come close to doing what is necessary.

When you ask why, the bottom line is very simple: They don't want to spend the money. Their idea after idea after idea about air security, port security, rail security, truck security—we have the technology, not to make certain a terrorist attack doesn't occur but certainly to decrease the odds of it. When you go to the people in the agencies and ask why are you not doing this or that, they say: We don't have the money. When we come to the floor and argue about homeland security—as we just did when the Appropriations bill on homeland security came forward—we were told by my friend from Mississippi, the chairman, that we are spending enough. Let me tell you, we are not spending close to enough in any one of these areas.

Let's say, God willing, we manage to wipe out al-Qaida in the next year or two, and let's say the problems in Iraq subside—in my view, because KERRY will be elected and will handle them a lot better than President Bush has—we are still going to have new terrorist threats.

Terrorism can be described in a single sentence, which is that the very technology that has blessed our lives and accounted for so much of the prosperity we have seen over the last two decades has an evil underside; namely, that small groups of bad people can get ahold of that technology and use it for terrible purposes. So if al-Qaida is gone—and let's hope they will be—and if terrorism in Iraq greatly declines—and let's hope that occurs—there are going to be new groups that start using this terrorism and using it against us and trying to use it in our homeland. It could be Chechnians; maybe they will have a meeting and decide that instead of blowing up movie theaters and airplanes in Moscow, the real answer is to go after the United States. Maybe it will be East Timorese, who have been fighting for independence in east Asia. For all we know, it could be skinheads in Montana who decide to do this—a couple of them did it in Oklahoma City—but in a more structured and destructive way, God forbid. So we cannot even keep track of the various groups that could hurt us.

The sad fact is, if 500 random people around the world, with some leadership, were injected with an evil virus and they were to decide, fanatically, they would devote the next 5 years of their lives to figuring out how to hurt America and try to implement it, the odds are too high that they could succeed.

So do we need a good offense? Yes, we do. Do we need a good defense? You bet. On area after area after area, we are not doing enough. Let me catalog a few.

Air security, here we are doing something of a better job than we have done in the past. The screeners, for all the problems they have, are a lot better than they were before 9/11 when they were paid minimum wage by private security companies. Some didn't speak English adequately. We are inspecting cargo.

But probably the No. 1 way terrorists could now hurt us as we travel in the air is by using shoulder-held missiles. We know the terrorists have them, al-Qaida has them, and they are available on the black market. We are slow walking any attempt to put on our commercial airplanes the mechanism to deflect the rockets, the heat-seeking rockets that emerge from shoulder-held missiles.

Mr. REID. Will the Senator yield?

Mr. SCHUMER. Yes.

Mr. REID. Is the Senator aware that on at least five different occasions we have had votes on the Senate floor where we have asked for increased funding for homeland security and the Bush people have turned it down through various ways? I amplify that by saying these are all set forth in Senator BYRD's best-selling book. Is the Senator aware we tried to get money for real homeland security—not security in Iraq but security for the American people—and this has been turned down; is he aware of that?

Mr. SCHUMER. I am aware of it, and it frustrates me to no end. Senator BYRD has had amendments, Senator MURRAY has had amendments, Senator CORZINE has had amendments, Senator CLINTON and I have had amendments, one after the other, and they are turned down.

I say to my colleague from Nevada, I have asked people in the administration, both present and former—a few who quit in disgust—are President Bush and his people not aware of the dangers? They basically say, no, they are aware of the dangers, but they don't want to spend any money here at home. They would rather have all the money go to tax cuts, and so it is not that they do nothing in each of these

areas; they do the bare minimum: Let's have a study and let it take 2 years. Let's decide on what to do down the road.

For every year we wait, we become more vulnerable.

Mr. REID. Being more specific, is the Senator aware we have tried to address rail security and Amtrak security? Turned down. On several occasions, port security, turned down. Is he aware we have tried to get specific money to first responders? Turned down. The Senator is aware of this and other measures—for example, hazardous chemicals security, which Senator CORZINE has pushed so much. The Senator is aware of each of these, and we have had votes and have been turned down on the floor by the majority on all requests.

Mr. SCHUMER. Mr. President, I am aware, to answer my good friend from Nevada, of this. I am frustrated by it, and, frankly, I am befuddled by it because an administration that is so aggressive when it comes to taking the war overseas and will ask us for billions and billions more at the drop of a hat——

The PRESIDING OFFICER. All time has expired.

Mr. SCHUMER. I thank the Presiding Officer.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

NATIONAL INTELLIGENCE REFORM ACT OF 2004—Continued

Mr. THOMAS. 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. MCCAIN. 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. 3702

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the McCain amendment.

The Senator from Arizona.

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

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

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

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to support the amendment which I cosponsored with Senator MCCAIN. This is the first of several he and I will be introducing, along with other Members, which would implement recommendations of the 9/11 Commission not included in the underlying bill that Senator COLLINS and I have introduced which focuses on intelligence reform.

Mr. ROCKEFELLER. Mr. President, I am pleased to support my colleague's amendment to implement the 9/11 Commission's recommendations on improving aviation security. Senator MCCAIN and I have worked closely over the last several years to strengthen our aviation security network. Although I strongly agree with the 9/11 Commission's recommendations for improving aviation security, I believe that Congress must go further than the Commission's recommendations if we are to continue to improve our aviation security system.

It is for this reason that I have filed my bill, S. 2393, the Aviation Security Advancement Act, as an amendment to this legislation as well. I would note that Senator MCCAIN is a cosponsor of my bill. In addition, to incorporating the recommendations of the 9/11 Commission, my bill also includes specific requirements to improve air cargo and general aviation security, which I have long felt to be significant gaps in our security system and the 9/11 Commission specifically cited as a weakness. My bill also authorizes funding for these new security requirements.

This legislation was passed unanimously out of the Commerce Committee last week. This legislation is also supported by the airline industry. I hope that the Senate will consider this legislation later this week. My amendment is cosponsored by Senators HOLLINGS, LAUTENBERG, SNOWE, and SCHUMER.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to amendment No. 3702.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The result was announced—yeas 97, nays, 0, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—97

Alexander	Dole	Lugar
Allard	Domenici	McCain
Allen	Dorgan	McConnell
Baucus	Durbin	Mikulski
Bayh	Ensign	Miller
Bennett	Enzi	Murkowski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Bond	Fitzgerald	Nelson (NE)
Boxer	Frist	Nickles
Breaux	Graham (FL)	Pryor
Brownback	Graham (SC)	Reed
Bunning	Grassley	Reid
Burns	Gregg	Roberts
Byrd	Hagel	Rockefeller
Campbell	Harkin	Santorum
Cantwell	Hatch	Sarbanes
Carper	Hollings	Schumer
Chafee	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Clinton	Inouye	Smith
Cochran	Jeffords	Snowe
Coleman	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kohl	Stevens
Cornyn	Kyl	Sununu
Corzine	Landrieu	Talent
Craig	Lautenberg	Thomas
Crapo	Leahy	Voinovich
Daschle	Levin	Warner
Dayton	Lieberman	Wyden
DeWine	Lincoln	
Dodd	Lott	

NOT VOTING—3

Akaka	Edwards	Kerry

The amendment (No. 3702) was agreed to.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, it is my understanding that Senator STEVENS no longer needs to use his time at this time. I believe he will be speaking later. So I ask unanimous consent to vitiate the order that reserved time for Senator STEVENS and instead have Senator HUTCHISON recognized to offer an amendment.

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

The Senator from Texas.

AMENDMENT NO. 3711

Mrs. HUTCHISON. Mr. President, I call up amendment No. 3711, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 3711.

Mrs. HUTCHISON. 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 provide for air cargo safety, and for other purposes)

At the appropriate place, insert the following:

TITLE —AIR CARGO SAFETY

SEC. —01. SHORT TITLE.

This title may be cited as the ''Air Cargo Security Improvement Act''.

SEC. —02. INSPECTION OF CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

Section 44901(f) of title 49, United States Code, is amended to read as follows:

''(f) CARGO.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall establish systems to screen, inspect, or otherwise ensure the security of all cargo that is to be transported in—

''(A) passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation; or

''(B) all-cargo aircraft in air transportation and intrastate air transportation.

''(2) STRATEGIC PLAN.—The Secretary shall develop a strategic plan to carry out paragraph (1) within 6 months after the date of enactment of the Air Cargo Security Improvement Act.

''(3) PILOT PROGRAM.—The Secretary shall conduct a pilot program of screening of cargo to assess the effectiveness of different screening measures, including the use of random screening. The Secretary shall attempt to achieve a distribution of airport participation in terms of geographic location and size.''.

SEC. —03. AIR CARGO SHIPPING.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

''§ 44925. Regular inspections of air cargo shipping facilities

''The Secretary of Homeland Security shall establish a system for the regular inspection of shipping facilities for shipments of cargo transported in air transportation or intrastate air transportation to ensure that appropriate security controls, systems, and protocols are observed, and shall enter into arrangements with the civil aviation authorities, or other appropriate officials, of foreign countries to ensure that inspections are conducted on a regular basis at shipping facilities for cargo transported in air transportation to the United States.''.

(b) ADDITIONAL INSPECTORS.—The Secretary may increase the number of inspectors as necessary to implement the requirements of title 49, United States Code, as amended by this subtitle.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, is amended by adding at the end the following:

''44925. Regular inspections of air cargo shipping facilities''.

SEC. —04. CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is further amended by adding at the end the following:

''§ 44926. Air cargo security

''(a) DATABASE.—The Secretary of Homeland Security shall establish an industry-wide pilot program database of known shippers of cargo that is to be transported in passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation. The Secretary shall use the results of the pilot program to improve the known shipper program.

''(b) INDIRECT AIR CARRIERS.—

''(1) RANDOM INSPECTIONS.—The Secretary shall conduct random audits, investigations, and inspections of indirect air carrier facilities to determine if the indirect air carriers are meeting the security requirements of this title.

''(2) ENSURING COMPLIANCE.—The Secretary may take such actions as may be appropriate to promote and ensure compliance with the security standards established under this title.

''(3) NOTICE OF FAILURES.—The Secretary shall notify the Secretary of Transportation of any indirect air carrier that fails to meet security standards established under this title.

''(4) WITHDRAWAL OF SECURITY PROGRAM APPROVAL.—The Secretary may issue an order amending, modifying, suspending, or revoking approval of a security program of an indirect air carrier that fails to meet security requirements imposed by the Secretary if such failure threatens the security of air transportation or commerce. The affected indirect air carrier shall be given notice and the opportunity to correct its noncompliance unless the Secretary determines that an emergency exists. Any indirect air carrier that has the approval of its security program amended, modified, suspended, or revoked under this section may appeal the action in accordance with procedures established by the Secretary under this title.

''(5) INDIRECT AIR CARRIER.—In this subsection, the term 'indirect air carrier' has the meaning given that term in part 1548 of title 49, Code of Federal Regulations.

''(c) CONSIDERATION OF COMMUNITY NEEDS.—In implementing air cargo security requirements under this title, the Secretary may take into consideration the extraordinary air transportation needs of small or isolated communities and unique operational characteristics of carriers that serve those communities.''.

(b) ASSESSMENT OF INDIRECT AIR CARRIER PROGRAM.—The Secretary of Homeland Security shall assess the security aspects of the indirect air carrier program under part 1548 of title 49, Code of Federal Regulations, and report the result of the assessment, together with any recommendations for necessary modifications of the program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 60 days after the date of enactment of this Act. The Secretary may submit the report and recommendations in classified form.

(c) REPORT TO CONGRESS ON RANDOM AUDITS.—The Secretary of Homeland Security shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on random screening, audits, and investigations of air cargo security programs based on threat assessments and other relevant information. The report may be submitted in classified form.

(d) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, as amended by section 3, is amended by adding at the end the following:

''44926. Air cargo security''.

SEC. —05. TRAINING PROGRAM FOR CARGO HANDLERS.

The Secretary of Homeland Security shall establish a training program for any persons that handle air cargo to ensure that the cargo is properly handled and safe-guarded from security breaches.

SEC. —06. CARGO CARRIED ABOARD ALL-CARGO AIRCRAFT.

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a program requiring that air carriers operating all-cargo aircraft have an approved plan for the security of their air operations area, the cargo placed aboard such aircraft, and persons having access to their aircraft on the ground or in flight.

(b) PLAN REQUIREMENTS.—The plan shall include provisions for—

(1) security of each carrier's air operations areas and cargo acceptance areas at the airports served;

(2) background security checks for all employees with access to the air operations area;

(3) appropriate training for all employees and contractors with security responsibilities;

(4) appropriate screening of all flight crews and persons transported aboard all-cargo aircraft;

(5) security procedures for cargo placed on all-cargo aircraft as provided in section 44901(f)(1)(B) of title 49, United States Code; and

(6) additional measures deemed necessary and appropriate by the Secretary.

(c) CONFIDENTIAL INDUSTRY REVIEW AND COMMENT.—

(1) CIRCULATION OF PROPOSED PROGRAM.—The Secretary shall—

(A) propose a program under subsection (a) within 90 days after the date of enactment of this Act; and

(B) distribute the proposed program, on a confidential basis, to those air carriers and other employers to which the program will apply.

(2) COMMENT PERIOD.—Any person to which the proposed program is distributed under paragraph (1) may provide comments on the proposed program to the Secretary not more than 60 days after it was received.

(3) FINAL PROGRAM.—The Secretary of Homeland Security shall issue a final program under subsection (a) not later than 90 days after the last date on which comments may be provided under paragraph (2). The final program shall contain time frames for the plans to be implemented by each air carrier or employer to which it applies.

(4) SUSPENSION OF PROCEDURAL NORMS.—Neither chapter 5 of title 5, United States Code, nor the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the program required by this section.

SEC. —07. PASSENGER IDENTIFICATION VERIFICATION.

(a) PROGRAM REQUIRED.—The Secretary of Homeland Security may establish and carry out a program to require the installation and use at airports in the United States of the identification verification technologies the Secretary considers appropriate to assist in the screening of passengers boarding aircraft at such airports.

(b) TECHNOLOGIES EMPLOYED.—The identification verification technologies required as part of the program under subsection (a) may include identification scanners, biometrics, retinal, iris, or facial scanners, or any other technologies that the Secretary considers appropriate for purposes of the program.

(c) COMMENCEMENT.—If the Secretary determines that the implementation of such a program is appropriate, the installation and use of identification verification technologies under the program shall commence as soon as practicable after the date of that determination.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that Senator SNOWE be added as a cosponsor of the amendment.

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

Mrs. HUTCHISON. Mr. President, I rise today to offer the Air Cargo Security Act as an amendment to the Intelligence Reform Act. This is a measure that we need to pass to answer some of the criticisms in the 9/11 Commission Report regarding cargo security.

I am going to talk further about this bill, but I would like to offer Senator MCCAIN some of the time to also talk because he was one of the cosponsors. It went through the Commerce Committee with his chairmanship. We all agree this is a bill that is needed to add to the security that is in the bill in accordance with the 9/11 Commission Report.

I yield to Senator MCCAIN for his remarks, and then I will finish my presentation.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the Senator from Texas. She has been on this issue for at least 3 years that I know of. We passed this bill twice through the Senate. Under the chairmanship of Senator HUTCHISON, we had extensive hearings on this issue in the Commerce Committee.

I believe this is a very important issue. Senator HUTCHISON has many important aviation assets in her State, including major airports that are not only for passengers but for ports of entry as well.

I say to Senator HUTCHISON, thank you, because I think this is a very important bill. I tell my colleagues, it has been passed twice through the Senate. It is unfortunate that we have to go back and revisit it.

Finally, we made a commitment that we would try to address all 41 of the recommendations of the 9/11 Commission, not always in a positive fashion but at least have them addressed. This is one of the recommendations of the 9/11 Commission.

I thank Senator HUTCHISON, and I urge my colleagues to support this very important amendment. Air cargo, according to many experts, is a subject that certainly needs increased security and increased attention. I think this amendment does that. I thank my colleague from Texas, Senator HUTCHISON.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the distinguished chairman of the Commerce Committee, Senator MCCAIN, for adding his support to this bill. We would not have gotten it through the Commerce Committee without his support. I think it adds immeasurably to the bill that is before us today.

Congressional action following 9/11 quickly created the Transportation Security Administration to address the appalling security gaps exposed by terrorists. We took drastic but appropriate steps to considerably increase security of our airports and planes, and 3 years later we are light-years ahead of where we were on that horrific day.

I am pleased that the 9/11 Commission raises issues that are similar to those I have discussed since we enacted the Aviation and Transportation Security Act. The Commission report states:

> Concerns also remain regarding the screening and transport of checked bags and cargo. More attention and resources should be directed to reducing or mitigating the threat posed by explosives in vessels' cargo holds.

I have worked since 2001 to enact stringent air cargo security standards and, along with Senator FEINSTEIN, introduced the Air Cargo Security Act to create a comprehensive system to secure shippers, freight forwarders, and carriers. The Senate has twice passed this bill unanimously, but it remains stalled in the House of Representatives.

The bottom line is this: Are we safer than on September 11? Absolutely. But have we done enough? Not yet. So I think we can do more. I think this is an opportunity for us to address this issue.

The Air Cargo Security Act will make a difference in our Nation's air security. One thing we have not provided since 9/11 is security in the belly of the aircraft equal to protections for passenger areas and airports. Cargo is shipped on passenger aircraft, in some cases, without being screened. That is why we need this amendment.

The Air Cargo Security Act would establish a reliable known-shipper program, mandate inspections of cargo facilities, and direct the Transportation Security Agency to work with foreign countries to institute regular inspections at facilities that bring cargo into the United States.

The legislation would develop a training program for air cargo handlers and give TSA the power to revoke the license of a shipper or freight forwarder whose practices are unsound. These provisions will go a long way toward further securing aircraft in our country. All of us want America to have the safest aviation system in the world. Closing the cargo loophole is an important step.

There is no doubt in my mind that the traveling public is considerably safer. We have made changes to ensure our screeners undergo background checks, training, and testing. Checked bags are scrutinized, flight crew training is constantly being improved, and we are traveling in a more secure system. But we must address the cargo issue.

Mr. President, 22 percent of all air cargo in the United States is carried on passenger flights, only a tiny fraction of which is inspected.

Beyond transport on passenger planes, there are other issues in the cargo arena. Identification cards used by workers are generally not secured with fingerprints or other biometric identifiers. Background checks for cargo employees are still inadequate.

Perhaps the weakest link in the cargo security chain is the freight forwarder. These are the middlemen who collect cargo from the shippers and deliver it to the air carrier. Regulations governing these companies are lax, and the TSA is finding security violations when it conducts inspections. Under current law, however, TSA lacks the authority to revoke the shipping privileges of freight forwarders that repeatedly violate security procedures. This air cargo security amendment would give TSA that power.

Air cargo security is not a new problem. In 1988, Pan Am 103 went down over Lockerbie, Scotland, because of explosives planted inside a radio in the cargo hold of a passenger airplane. The 1996 Valujet crash in the Everglades was caused by high-pressure tanks that never should have been put on a passenger aircraft in the first place.

My amendment will strengthen air cargo security on all commercial flights. It establishes a more reliable known shipper program by requiring inspections of facilities, creating an accessible shipper database, and providing for tamper-proof identification cards for airport personnel. It gives TSA the tools required to hold shippers accountable for the contents they ship by allowing the administration to revoke the license of a shipper or freight forwarder engaged in unsound or illegal practices. This is the most important part of the bill. The TSA has told me time and again they need to have this capability in order to revoke licenses when they find an unsafe situation.

I have had the support of my colleagues, such as Senator MCCAIN. Senator LOTT, the chairman of the Aviation Subcommittee, has worked with me on this bill. We have passed this bill twice in the Senate. It is a bill we have looked at, we have vetted. We have had hearings.

I see my colleague Senator LOTT, the chairman of the Aviation Subcommittee, is on the floor of the Senate. He knows this bill. He worked with me to perfect it. If we can put this amendment on this very important piece of legislation, it will add immeasurably to our aviation security. We will have the most secure aviation system in the world with this amendment on this particular legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I congratulate the Senator from Texas for her determination in this area. It is one of the places where there was a gap in our aviation security. It is one that she has been working on, thinking about, going back to the last Congress. I think one of the last things we did in the last Congress was the Senate let this issue go through, but we didn't get it completed. She has continued to work on it. There were some concerns. Those concerns have been worked on and developed and straightened out, and this is a good piece of legislation. It passed the full Commerce Committee overwhelmingly last week. It is supported by the industry. I want the record to show that it would not be happening if it were not for her determination and her leadership. It is good legislation.

The title of this bill is National Intelligence Reform Act. I want us to concentrate on the intelligence area and the reforms that are necessary to give the national intelligence director the real strength he or she may need to make sure our intelligence community does its job. It talks about the national counterintelligence center. This was done at the recommendation of the 9/11 Commission for intelligence and security reforms. So while I don't want this to just become a debate about various

security areas, I would like us to focus on intelligence. This is an area where there clearly was a gap. This is an area where thoughtful legislation was available. I believe it is appropriate to be added.

I hope we will support the chairman of the committee and the ranking member who have worked hard to get this legislation through in a reasonable time. We will have some good debates, and we will have some disagreements. We will have some votes. But at the end of the day, we need to get this done because the Commission has made it clear where there are gaps and where there are problems, both in the executive branch and in the legislative branch. We also have to have the follow-on congressional reforms that will allow us to do a better job on oversight because we are part of the problem.

For those who have questions or have concerns or have amendments, my argument is, come forth. Let's have the amendments. Let's debate them in the light of day. Let's have a full debate and let's vote. But let's get this done because this is about real issues. A lot of times we debate, we vote on things that won't affect our lives immediately or affect people's ability to do the job under national security. But this legislation is about lives. It is about what happened on 9/11. It is about what will happen again if we don't step up to this important issue and make sure that our executive branch is set up in such a way as to do the job, that they have the right chain of command and that somebody is in charge, somebody who reports only to the President, somebody who can make a decision about the placement of satellites, somebody who will give us the information we need to know, not only about how much money is spent but where it is spent.

That has been one of our problems. The Congress has not been putting money in many instances where it should have gone so that our intelligence community would have had what they needed to do the job. Just this very day, we understand the FBI does not have the linguists they need to translate intercepts. Now it has become so voluminous it is uncontrollable. That is scary. But it is a real problem. We are not going to solve it just with this bill or just in this week. If we don't begin now, it will make the day even more inevitable or closer that we are going to have another disaster on our hands.

I am here today to tell the committee members I support their effort. They have done a good job. We can make it stronger, I believe. But I am going to be supporting getting this work completed.

I thank the chairman of the committee and I thank the sponsor of this amendment for the work she has done on this cargo security issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the distinguished chairman of the Aviation Subcommittee, the Senator from Mississippi. In fact, one of the unanimous consents we had when we took this intelligence reform bill to the floor was that all the amendments would have to be relevant to the 9/11 Commission. The amendment before us is relevant. I think because the Senate has acted on this, it will be a valuable contribution to the bill.

I appreciate the help and counsel of the Senator from Mississippi. I thank the distinguished chairman and ranking member of the Governmental Affairs Committee for bringing this bill to the Senate floor. We will pass this bill, and it will be a good bill. We are all going to work together to make that happen, which the distinguished chairman and ranking member have already proven.

I ask for the yeas and nays at the appropriate time for whenever it can be scheduled along the lines that the chairman and ranking member would schedule.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, before the Senator from Mississippi has to leave the floor, I want to thank him for his advice and his support as we bring this very important legislation before the Senate for consideration. I very much value the advice and support of the Senator, and I appreciate all he is doing to help move this legislation forward. He has been a very early voice in identifying the flaws in our current intelligence system and has been stalwart in his support for significant reform. I thank the Senator from Mississippi.

I also commend the Senator from Texas for her continued effort to examine the recommendations of the 9/11 Commission and to pursue legislative solutions, particularly in the area of improving the security of cargo and general aviation security in general. Senator HUTCHISON has been a longtime leader in this area. Her amendment encompasses a significant portion of S. 165 that the Senate passed by unanimous consent in May. I commend her for her foresight in recognizing areas of concern that have been singled out by the 9/11 Commission.

In the Commission's report, for example, the Commission noted that:

> Major vulnerabilities still exist in cargo and general aviation security.

The Commission went on to say that:

> The TSA and Congress must give priority attention to improving the ability of screening checkpoints to detect explosives.

The Commission says:

> More attention and resources should be directed to reducing or mitigating the threat posed by explosives in vessels' cargo holds.

These are all areas of weakness identified by the Commission that the Senator from Texas would address in her amendment. It will assist in implementing several of the Commission's recommendations and as a whole will help to make our Nation's air passengers, air carriers, and air cargo more secure. I would note that the Department of Homeland Security has no objections to the Senator's amendment. When the roll call does occur, I will be urging our colleagues to support her efforts.

I yield the floor.

Mr. LIEBERMAN. Mr. President, I rise to support the amendment of Senator HUTCHISON. I thank her for proposing it. She was ahead of her time because she has been on this case, along with members of the Commerce Committee, at least since March of last year, when the bill came out of the Commerce Committee; in fact, the Senate passed this bill unanimously in May of 2003.

Unfortunately, there has been no action that meets up with this bill in the House. So Senator HUTCHISON is quite right to introduce this as an amendment to our underlying reform of the intelligence community. This is directly relevant to the 9/11 Commission's conclusion that ''major vulnerability still exists in cargo and general aviation security. These, together within adequate screening and access controls, continue to present aviation security challenges.'' That comes from the 9/11 Commission.

The Commission concluded that we are safer than we were on September 11, 2001, but we are not yet safe. This underlying bill is aimed at reforming our intelligence community so we will be safe, so we can see the threats coming at us, hear them, and stop them before the terrorists are able to strike, but also that we may adopt other provisions of the 9/11 Commission report.

Senator MCCAIN and I introduced an amendment that was the first to pass a short while ago. I hope this amendment will pass as well, because it tightens existing weaknesses, loopholes in the screening of cargo transported in passenger aircraft, opening up a vulnerability that we all fear terrorists may exploit to strike at us.

I thank the Senator from Texas for not only being foresighted last year in seeing this weakness in our defenses to terrorism but for coming forth and introducing this amendment. It will strengthen the bill Senator COLLINS and I and other members of the Governmental Affairs Committee have brought out and, therefore, I urge its adoption.

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. FRIST. 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. FRIST. Mr. President, we are making very good progress on this significant bill that does focus on the

safety and security of the American people. This morning the Democratic leader and I opened up stressing the importance of making very efficient use of our time on the floor.

A lot has been accomplished even since this morning, but we have a lot to do. This morning the leadership on both sides of the aisle talked, and we have talked in our caucuses, of the importance of collecting today all of the amendments that might potentially be offered on this bill. People have been studying the issue since August. The bill was marked up in committee in a very thorough way. A lot of amendments were offered and debated, some of which will be debated again on the floor. Because we need to finish the bill this week, if at all possible, it means, given the fact that there are a lot of evening commitments which will preclude us from doing a lot of voting tonight, we have to get this universe of amendments today.

Thus, I ask all of our colleagues to give us, through the managers, their potential amendments today, and if they plan on offering amendments, we absolutely must have them today.

We are not looking for amendments, but if people have serious amendments they feel need to be debated, if we have that list, and shortly thereafter—and it would be in all likelihood some time tomorrow—we will ask to have the complete language of each of those amendments.

The initial reaction by some is: you are moving too fast. Again, this is something we announced several weeks ago, that we would be going to the bill yesterday. We have made progress. The bill has been out, and people have had time to address it. We ask people over the next hour or couple of hours to let us know what amendments they may want to offer so we can have that list, and then shortly thereafter—not tonight, but shortly thereafter—we will have a deadline by which we need to have those amendments, to have the language. It is the only way we will have an orderly process to address the substance of this very important bill.

Mr. REID. Mr. President, will the Republican leader yield?

Mr. FRIST. I will.

Mr. REID. Mr. President, Senator DASCHLE announced in our caucus that he was in agreement with the majority leader. In conjunction with the Republican cloakroom, we are going to hotline this and tentatively have 9:30 or 10 o'clock in the morning—whenever the two cloakrooms agree they can get their work done, we will have a time for Members to let us know what amendments they might want to offer.

Senator DASCHLE is always very cautious to make sure we have ample time to offer amendments, but this is an extraordinary piece of legislation, and Senator DASCHLE agrees with the Republican leader that we should set a time shortly thereafter, either tomorrow evening—or I assume tomorrow evening, when Members will actually have to file their amendments.

The concept of the majority leader is certainly one with which Senator DASCHLE agrees. So we are ready to have our hotline go out, and theirs. We will look at amendments in the morning and find out what the universe of those amendments is, and then those people are going to have to step forward and offer amendments at a later time and enter into a consent agreement if at all possible later on tomorrow.

Mr. FRIST. Good. Mr. President, as you can hear, this is a bipartisan effort, with full cooperation back and forth between the managers and the leadership. We felt it was important to restate the sense of efficiency with which we have to address this bill. That is what we would like to see happen.

Again, please let us know your amendments in the next several hours.

Mr. President, I ask unanimous consent that the vote occur in relation to the pending amendment, that is, the Hutchison amendment No. 3711, at 4:30 p.m. today, with no amendments in order to the amendment prior to the vote; further, that there be 2 minutes equally divided for closing remarks prior to the vote.

Mr. REID. Reserving the right to object, if the leader can withhold for a minute, unless there is something that would cause us to vote at 4:30 p.m., we might be able to get that done a half hour earlier.

Mr. FRIST. From our side, because of various commitments, 4:30 p.m. is the best time.

Mr. REID. No objection.

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

Mr. FRIST. Mr. President, part of the scheduling is to do just that, so we can have another amendment fully considered and then yet even another amendment. For planning purposes, 4:30 p.m. seems to be the most appropriate time. We will continue to debate and vote on amendments. Then hopefully by 4:30 p.m., we will be able to schedule additional votes as well.

Again, I encourage all Members to come forward now and notify us of their amendments and to work through the managers to offer appropriate amendments.

Mr. REID. Mr. President, if the distinguished majority leader is finished, Senator NELSON is here and wishes to be recognized for 5 minutes to talk about the situation in Florida. Is that all right with the two managers?

Mr. LIEBERMAN. Mr. President, if I might say a word before that and then I will be happy to yield the floor to Senator NELSON. Maybe I should yield to the chairman who will probably say the same thing I will be saying.

I am very grateful to the Senate majority leader and to the Senate Democratic leader for this agreement and for the pace they are setting for consideration of this bill on a bipartisan basis. These are not ordinary times. This is not ordinary legislation. It goes to the heart of our security. We want to have thoughtful debate.

The chairman of the committee, Senator COLLINS, and I found in the committee that when we let some time for debate occur, people came to very thoughtful conclusions, totally without regard to party. The votes on all the amendments went all around the lot. I think people ultimately felt good about the process.

By setting these deadlines now for amendments to be noticed and then filed, we are going to expedite exactly that kind of thoughtful consideration so we can get this done with the same feeling of, well, confidence that we are doing the right thing. We are not only doing something we need to do quickly, but we are doing it the right way. So I thank the majority leader and Senator DASCHLE for their help on that matter and the help they have given to Senator COLLINS and me.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I, too, thank our leaders for their cooperation in moving this bill forward. The process they have outlined is a fair one. It will help us know how many amendments there are, and we will work with the sponsors of those amendments to ensure adequate debate.

If the Senator from Florida could tell me how much time he anticipates needing.

Mr. NELSON of Florida. Mr. President, if I take 1 minute per hurricane in Florida, that would be a total of 4 minutes.

Ms. COLLINS. Mr. President, we would be happy, in light of the devastation to his State, to give the Senator from Florida 10 minutes, if that would be helpful.

Mr. NELSON of Florida. Mr. President, to the distinguished Senator from Maine, it will not be necessary for 10 minutes, but the Chair of the committee is very gracious.

It seems all I talk about on the floor of the Senate is the hurricanes that have ravaged Florida. I would like to say to the leadership of the committee, I support their legislation. I am looking forward to voting for it. They have done a magnificent job. It is very timely, and I hope the wisdom they have displayed will be displayed by the House of Representatives so we can get a quick agreement and a conference and go about the process of reforming our intelligence apparatus. My congratulations.

FLORIDA HURRICANES

It does seem that I have spoken over and over about hurricanes and about the need for disaster assistance. Indeed, I am making that plea again. When we passed the Department of Homeland Security funding bill 2 weeks ago, the chairman of the Appropriations Committee had committed, in a colloquy on the Senate floor, that he would address it. I take him at his word, and I am sure his word is good.

Now that the President has requested additional funds, the question for us

and Florida is speed in enacting this legislation quickly so that money can get to the people who desperately need it in direct, outright FEMA grants. They need assistance to rebuild their homes. They need Small Business Administration loans so that they can rebuild their lives and their businesses. Then there are a myriad of Federal disaster assistance programs to local governments so that we can rebuild our communities, so that we can pick up the debris.

There is one part of Florida where debris is all over our communities from three hurricanes that have hit the same place. We need to rebuild our roads and bridges, our airports, our military facilities, and NASA at the Kennedy Space Center. So time is of the essence, and I implore our leadership to get that message through to the White House and to the leadership at the other end of this Capitol to get these funds.

It is the intention of the chairman of the Appropriations Committee, who just told me this a few minutes ago, to attach this money to the Homeland Security bill, but if that bill gets hung up for whatever reason, then this emergency funding needs to come out of here like a rocket taking off at the Cape Canaveral Air Force Station so that it can get to our people.

Needless to say, after two hits, one wonders just what is in store, and how they are going to pick up the pieces of their lives. But when three hit, and then four, one can imagine how distressed our people are. Help us. We need speed. We need action now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that the following cosponsors be added to Collins-Carper-Lieberman-Coleman amendment No. 3705: Senators VOINOVICH, LEAHY, AKAKA, ROCKEFELLER, NELSON of Nebraska, and HAGEL.

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

Ms. COLLINS. Mr. President, Senator VOINOVICH, along with Senator LEVIN, was very instrumental in helping to draft the compromise represented in this amendment. I talked earlier about the efforts of the Senator from Delaware and the Senator from Connecticut, but I also wanted to acknowledge that Senator VOINOVICH and Senator LEVIN worked very hard to help us strike the right balance in allocating funding so that large States with high-threat areas would receive additional funding. Yet we wanted to make sure that we recognize that every State, regardless of size or population, has certain vulnerabilities.

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

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

AMENDMENT NO. 3706

Mr. SPECTER. Mr. President, I call up amendment No. 3706 on behalf of Senator SHELBY, Senator ROBERTS, Senator BOND, Senator WYDEN, Senator BAYH, Senator FEINSTEIN, and myself.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SPECTER), for himself, Mr. SHELBY, Mr. ROBERTS, Mr. BOND, Mr. WYDEN, Mr. BAYH, and Mrs. FEINSTEIN, proposes an amendment numbered 3706.

Mr. SPECTER. I ask unanimous consent the reading of the amendment be dispensed with.

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

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

Mr. SPECTER. Mr. President, this is one of two amendments which I intend to offer to strengthen the position of the national intelligence director. At the outset, I join many others in complimenting the chairwoman, Senator COLLINS, and the ranking member, Senator LIEBERMAN, for their leadership and their outstanding work in presenting the bill which is now on the floor.

This measure is a long time in coming for decision by the Congress. In my view, had there been a strong national intelligence director in existence prior to September 11, 2001, the attack on 9/11 might well have been prevented. There were many indicators present. Had they all been put together, I think there is a good chance we could have avoided the calamity of that day.

There is a famous FBI report from Phoenix about this suspicious character who wanted to learn how to fly an airplane but who was not interested in takeoffs or landings. That information never got to the appropriate authority in headquarters at the FBI. There were two al-Qaida suspects in Kuala Lumpur known to the Central Intelligence Agency, information not communicated to the INS, to Immigration, so that those two al-Qaida agents came into the United States and were among the 19 hijackers who perpetrated the atrocities of 9/11.

There was an extensive investigation conducted by the Minneapolis office of the FBI, the famous 13-page, single-spaced memorandum by special agent Coleen Rowley about Zacarias Moussaoui. Had those leads been followed, had there been an application for a warrant under the Foreign Intelligence Surveillance Act using the right standard—the FBI used the wrong standard—that would have produced a great deal of information which could have, in combination with other information, been pieced together to have warned us of the impending attack.

There is the information from NSA, where there was the tip that something was going to happen on 9/11 which was either not translated or not communicated to the Intelligence Committee.

There had been the information about Murad, an al-Qaida operative back in 1996, and his plans to fly an airplane into the CIA.

Those are only some of the threats. In combination and along with others, had we had all the information together, had we known what could have been pieced together, I think the likelihood is present that 9/11 could have been prevented.

During my tenure as chairman of the Senate Intelligence Committee during the 104th Congress, the Intelligence Committee reported a bill, S. 1718, which sought to lodge effective power in the Director of Central Intelligence. That position theoretically was in charge of all the intelligence community but, because of lack of authority, lack of budget control, the Director of the Central Intelligence Agency was never able to carry out the role of being the unifier, the real leader of the intelligence community.

In section 707 of that bill, it provided for:

Enhancement of authority of Director of Central Intelligence to manage, budget, personnel, and activities of the intelligence community.

On a cross referral, by the time it got to the Armed Services Committee, the substance was taken out. There was a big turf battle and the effort to lodge authority in the Director of CIA to do effective direction and management of the Central Intelligence Agency went to naught.

Thirty days after 9/11, Senator LIEBERMAN and I introduced legislation to create the Department of Homeland Security. That was on October 11 of 2001. When special agent Coleen Rowley testified before the Judiciary Committee in June of 2002, there was finally impetus to get support from the administration to move ahead with a Department of Homeland Security, and when the matter was debated on the floor of the Senate, the effort was made to vest authority in the Secretary of Homeland Security to direct other intelligence agencies. It seemed to us that when we were creating a new department, Homeland Security, this was an opportune time to pick up the strands of what had been attempted by S. 1718 back in 1996, and by many others.

It wasn't my idea alone. The Scowcroft Commission had come up with similar recommendations. Others had called for real power and real authority in a national director. It seemed to us that that was the time, with the new Department of Homeland Security, to give this effective power to the newly created Secretary of Homeland Security.

Our efforts, again, were unsuccessful because of the turf battles, because of the interests of the CIA and the Department of Intelligence, DIA, Defense Intelligence Agency, and the Department of Defense and the FBI, and the

other agencies to protect their own turf.

In October of 2002, the House of Representatives passed a bill and went home leaving the Senate with the alternative of either taking the bill or letting the matter go over until the next year. I was prepared at that time to offer the amendment to give the Secretary of Homeland Security authority to direct some real power. After talking to Secretary Ridge, talking with the Vice President, and talking with the President, rather than have no bill at all, it was decided to proceed and let the matter stand without having that kind of authority for the Secretary of Homeland Security.

There the matter languished until the families of the victims of September 11 became a powerful advocacy group, which led to the creation of the 9/11 Commission, and the 9/11 Commission report was filed in July of this year. There was very substantial momentum finally to create a national intelligence director with some real authority to really manage the entire community.

Senator MCCAIN, Senator LIEBERMAN, Senator BAYH, and I have produced a bill as had been recommended by the 9/11 Commission and then the Governmental Affairs Committee proceeded to have hearings, came back after the recess in late July, had hearings in August, marked up the bill, and passed it out of committee last week. So it is now on the floor in a context where there is considerable public pressure created by the 9/11 Commission report and what the families of the victims have done. And the momentum is present.

There has been very substantial opposition to moving at this time. There are those who say this legislation is precipitous, that it ought not to be passed on the eve of an election, that we have more of an eye on 11/2, the election date, than we have on 9/11.

I reject those contentions. This issue has been under study for decades, and personally on my behalf since I spent 8 years on the Intelligence Committee and chaired the committee during the 104th Congress.

The 9/11 Commission unanimously and emphatically has called for the creation of a national intelligence director. It is my view that is a proposition whose time has come.

When I offered the amendment in committee, which was rejected although we received five votes in the committee, there was very intense lobbying coming, as I understand it—you can never present competent evidence which would stand up in court but a lot of lobbying from the protectors of their turf.

My amendment to create the strength of the national intelligence director was deferred until this day. It is my hope and expectation that from this bill we will have a national intelligence director if it is the one proposed by amendment or if it is the one which is in the bill which has been reported by the committee.

It is my conclusion after very substantial study and after very substantial thought and after very substantial consideration that we need a very strong national intelligence director. We need an independent national intelligence director who will stand up to the executive branch, who will stand up to the Congress, who will tell the Congress exactly what is needed by way of resources, and who will have the stature and strength to get that job done.

There is an enormous controversy about the resolution to authorize the use of force which Congress passed and the President acted on—a lot of concern about the adequacy of the intelligence which led to that judgment, the 77 votes in this body joined by a majority of Democrats as well as Republicans. But there is no doubt that however one views the resolution for use of force, it would have been highly desirable to have better intelligence.

The amendment which is embodied in amendment No. 3706 would give substantial additional authority to the national intelligence director than is contained in the committee bill. It would put the CIA under the national intelligence director. The national intelligence director would have the authority to manage and oversee the intelligence community, including the CIA, the NSA, the National Security Agency, the NRO, the National Reconnaissance Office, the NGA, the National Geospacial Agency, and national collection from the Defense Intelligence Agency leaving tactical intelligence within the Department of Defense as it is now.

Valid considerations have been raised that tactical intelligence ought to be left in the Department of Defense so the Department of Defense can carry out its functions. My amendment would leave that important facet with the Department of Defense.

The national intelligence director under the committee bill has budget authority over the Federal Bureau of Investigation. After a great deal of thought, this amendment No. 3706 does not include the FBI under the supervision, direction, and control of the national intelligence director as the other agencies enumerated would have the national intelligence director with the authority to supervise, direct, and control which, in my judgment, would give the national intelligence director the authority to manage and oversee the national intelligence community in an effective way.

The essence of my bill was circulated to the Governmental Affairs Committee with a letter dated August 3 of this year. I put the bill into the CONGRESSIONAL RECORD on September 7. I introduced the bill on September 15 under the caption of S. 2081. The amendment embodied in No. 3706 is somewhat different, as I have described it.

We are dealing here with agencies where there are inbred cultures of concealment. It is very difficult to get information, even as chairman of the Senate Intelligence Committee.

My experience has shown it was very difficult for the Director of the Central Intelligence Agency to know fully and adequately what has happened within his own agency. One of the matters which I referred to during the committee hearings was information which was disseminated by the CIA Chief of Reports and Requirements in the Soviet East European Division of the Central Intelligence Agency. This was a man who was in the CIA from 1950 until 1991. He had information which was tainted by the Soviet Union—information where the individual conceded that he knew the intelligence came from Soviet-controlled sources and that he disseminated that information at the highest levels of government without disclosing that fact to the individuals whom he transmitted the information that it came from controlled or tainted sources.

That information was transmitted, including transmission on January 13 of 1993. So it went to President George Herbert Walker Bush and it went to President-elect Bill Clinton.

When I took his testimony and expressed shock at what he had done, the individual confidently responded that he had acted entirely properly because disclosure of the controlled source that the information was tainted would have made it even harder, as he put it, to sell the intelligence to policymakers; that there was no reason to believe the Soviets used deception was inaccurate, and no customer would use it unless he had concealed the fact it was tainted.

This was an extraordinary approach, as I saw it, but I think revealing as to what happens within the Central Intelligence Agency, within the Bureau, where the individuals have their empires, where they know better than anybody else, and transmit information to the President of the United States and the President-elect, knowing it to be tainted and not telling the President or President-elect that it was tainted because they then would not use it, and saying that the information was given because the CIA agent, the CIA individual, knew that it was correct. That is just the height of audacity but I think indicative of the kinds of problems we face with the cultures of concealment that we have in the intelligence agencies.

Another matter which I refer to, in the course of the committee hearings, is relevant for presentation; that is, the difficulty of having adequate oversight over the intelligence agencies and the duties that the intelligence agencies have to make disclosures to the oversight committee.

In the spring of 2002, when I chaired a subcommittee of oversight on the Department of Justice and had a wide-ranging subpoena, a document was presented which I ask unanimous consent

be printed in the RECORD, Mr. President.

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

DECEMBER 9, 1996.

To: Mr. Esposito.
From: Director.
Subject: Democratic National Campaign Matter.

As I related to you this morning, I met with the Attorney General on Friday, 12/6/96, to discuss the above-captioned matter.

I stated that DOJ had not yet referred the matter to the FBI to conduct a full, criminal investigation. It was my recommendation that this referral take place as soon as possible.

I also told the Attorney General that since she had declined to refer the matter to an Independent Counsel it was my recommendation that she select a first rate DOJ legal team from outside Main Justice to conduct that inquiry. In fact, I said that these prosecutors should be ''junk-yard dogs'' and that in my view, PIS was not capable of conducting the thorough, aggressive kind of investigation which was required.

I also advised the Attorney General of Lee Radek's comment to you that there was a lot of ''pressure'' on him and PIS regarding this case because the ''Attorney General's job might hang in the balance'' (or words to that effect). I stated that those comments would be enough for me to take him and the Criminal Division off the case completely.

I also stated that it didn't make sense for PIS to call the FBI the ''lead agency'' in this matter while operating a ''task force'' with DOC IGs who were conducting interviews of key witnesses without the knowledge or participation of the FBI.

I strongly recommended that the FBI and hand-picked DOJ attorneys from outside Main Justice run this case as we would any matter of such importance and complexity.

We left the conversation on Friday with arrangements to discuss the matter again on Monday. The Attorney General and I spoke today and she asked for a meeting to discuss the ''investigative team'' and hear our recommendations. The meeting is now scheduled for Wednesday, 12/11/96, which you and Bob Litt will also attend.

I intend to repeat my recommendations from Friday's meeting. We should present all of our recommendations for setting up the investigation—both AUSAs and other resources. You and I should also discuss and consider whether on the basis of all the facts and circumstances—including Huang's recently released letters to the President as well as Radek's comments—whether I should recommend that the Attorney General reconsider referral to an Independent Counsel.

It was unfortunate that DOJ declined to allow the FBI to play any role in the Independent Counsel referral deliberations. I agree with you that based on the DOJ's experience with the Cisneros matter—which was only referred to an Independent Counsel because the FBI and I intervened directly with the Attorney General—it was decided to exclude us from this decision-making process.

Nevertheless, based on information recently reviewed from PIS/DOC, we should determine whether or not an Independent Counsel referral should be made at this time. If so, I will make the recommendation to the Attorney General.

Mr. SPECTER. The essence of the document disclosed that there had been an effort by ranking officials in the Department of Justice to try to influence the FBI not to pursue an investigation on campaign finance irregularities in December of 1996 because at that time Attorney General Reno was under consideration for reappointment. The relevant part of this document from Director Freeh to Mr. Esposito, who was his deputy handling this matter:

I also advised the Attorney General of Lee Radek's comment to you that there was a lot of ''pressure'' on him and PIS [Public Integrity Section] regarding this case because the ''Attorney General's job might hang in the balance'' (or words to that effect). I stated that those comments would be enough for me to take him and the Criminal Division off the case completely.

This matter was not brought to the attention of the Judiciary Committee as a matter of oversight. In my judgment, this is the kind of a matter which the Director, on his own, without request, without knowledge by the oversight committee, without subpoena, as it was disclosed some 4 years later, should have turned over as a matter of oversight.

Another amendment which I intend to offer would give the national intelligence director a 10-year term on the analogy to the Director of the Federal Bureau of Investigation. That would enable the director of national intelligence to have a substantial degree of independence since his term would outlast the term of the President—4 years or, with reelection, a total of 8 years.

We have seen in today's press reports of very substantial problems in the FBI, where there are inadequate translators and a great deal of information from al-Qaida has gone untranslated. I have talked to FBI Director Mueller, who tells me the information is dated, but there is still a significant problem in having sufficient translators to handle that important matter so we have our intelligence in hand.

The national intelligence director is going to have to be strong and independent, with enough stature, with a tenure of a 10-year term, to come to the Congress and be able to see to it that adequate funds are provided for the intelligence community.

The media reports are full of information that show very substantial problems on what would happen in Iraq after a military victory with the insurgents. The national intelligence director is going to have to be strong and independent and bring those matters to the attention of the Congress as well as to the executive branch.

It is my hope that in this legislation we will do a complete job and structure the responsibilities of the national intelligence director to give him the authority on budget and the authority on supervision, direction, and control to effectively manage and oversee the entire intelligence community.

That is an abbreviated statement of a great many considerations. At this time, I yield the floor.

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

Ms. COLLINS. Mr. President, Senator SPECTER is offering the first of what I anticipate will be many amendments to alter the authority of the national intelligence director. He is arguing that the Collins-Lieberman bill does not go far enough. Later on in this debate you will hear from those who believe our bill empowers the NID too far, with too much authority in the NID.

Our approach gives the national intelligence director full budget authority, including the authority to execute, reprogram, and transfer funds over the entire budgets of the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office, which are all now located within the Department of Defense.

Our bill also gives the NID enhanced tasking authority, the power to transfer personnel and authority over the selections of the heads of these agencies with concurrence from the Secretary of Defense.

What it does not do is sever the link between these agencies and the Secretary of Defense, nor does it give the NID exclusive control over these agencies. And that would be the impact of Senator SPECTER's amendment. He would sever the link between these agencies and the Secretary of Defense, and he would give the NID exclusive control over these agencies. I think that would be a mistake.

I believe our legislation strikes the right balance in the relationship that it sets forth between the NID and these agencies. I note that our approach is consistent with the recommendations of the 9/11 Commission. It is consistent with the recommendations of the administration. The 9/11 Commission, indeed, opposes adoption of Senator SPECTER's amendment. The Commission believes it would be a mistake to sever that link between these agencies and the Secretary of Defense.

In deciding to keep these agencies—the NSA, the NGA, and the NRO—within the Department of Defense, we were cognizant of the fact that the NSA and the NGA are designated as combat support agencies. We did not want to in any way weaken or break the bonds between these agencies and the military forces that serve in that capacity. Indeed, many current and former defense officials warned that taking such a step would be counterproductive and would risk breaking something that is working well for the military today.

For example, at our hearings, Secretary Powell said:

We should not break the link between these intelligence organizations and the organizations that they are supporting, especially within the military context and the direct kind of support that the NRO and similar organizations give to the warfighter.

I would note that by severing that link, the Specter amendment would create some real anomalies. For example, in his proposal, he requires that every 2 years, the chairman of the Joint Chiefs of Staff would submit to the national intelligence director a report on the combat readiness of these organizations. Why would a report on

combat readiness go to the national intelligence director rather than to the Secretary of Defense?

There are some other unanticipated consequences of the Specter amendment that illustrate how wholesale changes to the status of NGA, NRO, and the NSA might have completely unintended consequences. For example, title X, section 442(b) now provides that the National Geospatial-Intelligence Agency shall improve means of navigating vessels of the Navy and the merchant marine by providing, under the authority of the Secretary of Defense, accurate and inexpensive nautical charts, sailing directions, books on navigation, and manuals of instructions for the use of all vessels in the United States and of navigators generally. The Specter amendment, in changing the Secretary of Defense to the national intelligence director, would make the national intelligence director responsible for a navigation mapping responsibility that has nothing to do with intelligence. That is just an example of some of the unintended consequences.

Again, the approach taken by Senator SPECTER—and I know he has given this matter a great deal of thought—does not have the support of the 9/11 Commission. It does not have the support of the administration. It would sever the link between these combat support agencies and the Secretary of Defense.

I will note that these three agencies within the Pentagon do serve customers other than the Secretary of Defense. There are other consumers, such as the CIA, for the intelligence information they produce. That is why our legislation does give the NID significant authority over these agencies, including budget authority, the ability to transfer personnel, and the ability, with the concurrence of the Secretary of Defense, to name the heads of these agencies. That is the right balance. But to break that link between these agencies and the Secretary of Defense simply, in my judgment, does not make sense.

I urge opposition to the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, with great respect for Senator SPECTER, friend and colleague, I rise to oppose this amendment.

I want to say that Senator SPECTER has been a very constructive member of the Governmental Affairs Committee, not just on this matter but on so many others that come before the committee. He has contributed substantially to the strength of the bill that is before the Senate that Senator COLLINS and I have offered. He and I talked quite seriously about this earlier in the year, and ultimately my conclusion was that it would construct a bridge too far.

We have a crisis, which the 9/11 Commission documents, which is that we have an intelligence community, as we discussed yesterday and showed on the graphs, without a leader, without anyone in charge. It is so frustrating to the point of being infuriating to read the lengthy narrative at the beginning of the 9/11 Report to see documented the failure to connect the dots. The cases that Senator SPECTER mentioned—one agency knowing something, not telling it to another agency, which might well have either kept out some of the terrorists who struck us on September 11—should have—or would have opened our eyes to the plot that was being hatched that FBI agents came face to face with, this is a system, the American intelligence community, without a leader.

The most urgent recommendation, according to Governor Kean and Congressman Hamilton, that the Commission makes to us is to create a strong national intelligence director and then, right alongside that, a strong counterterrorism center—connect the dots. We have done this. Senator COLLINS documented the various powers we have given to the national intelligence director.

First, this has been a recommendation of commission after commission. Going back to the late 1940s, when the National Security Act was adopted and the Central Intelligence Agency was created, post Second World War, there was the creation of the Director of Central Intelligence who was supposed to be not just the head of the CIA but the overseer of our entire intelligence community. The position was taken but hamstrung. It was not given the power. The DCI was the same person as the head of the CIA. That contributed to the community being without a leader.

In this bill we separate these two positions. We create the overarching national intelligence director, separate from the head of the CIA, and we give that national intelligence director real budget authority, personnel authority and tasking, assignment coordinating authority, which we are convinced will make us a lot safer and stronger against the threat of terrorism here at home and against Americans and others throughout the world.

The Specter amendment goes further than that and would provide that not only would the national intelligence director in the underlying bill direct, oversee, and execute the budgets of these agencies, but he or she would also supervise, direct, and control their day-to-day operations. That approach would create a department in everything but name and put the national intelligence director in charge of multiple agencies on a day-to-day basis.

One of the witnesses before our committee was Philip Zelikow, Executive Director of the 9/11 Commission. We asked Dr. Zelikow: Did the Commission consider creating a department of intelligence, giving the national intelligence director the powers that the Specter amendment would give?

Dr. Zelikow said: Yes, the Commission considered creating such a department but decided against it on several bases.

And they are the bases of my opposition to the Specter amendment. First, the current job that the Director of Central Intelligence had—which was CIA Director, director of presumably the overall intelligence community and principle intelligence adviser to the President—was in itself more than one person could do. To give powers to the national intelligence director for day-to-day operations of the agencies under his or her control would again give more authority, more responsibility than the Commission decided was appropriate and manageable.

The Commission also opted for what they considered to be a more modern management approach. They didn't want to create another big Federal bureaucracy; they wanted to create, really patterned after some very large and very successful private corporations in this country, a central management system, strong as our national intelligence director would be, with budget, personnel, tasking authority, but not top heavy, agile, and not in response or in charge of the day-to-day decisions of all of the agencies under that position. That is what we have in the approach we are taking in this bill.

Senator COLLINS said some people will say—and you will hear of amendments on this floor, as the debate goes on, from Members and those outside the Chamber who feel the bill Senator COLLINS and I have put before the Senate gives the national intelligence director too much power. They will try to strip away that power or fuzz it up so that it is not clear and the status quo can remain. There will be plenty of opportunity to argue against that when those amendments are filed.

But here we are in the middle of a war on terrorism, struck as we were on September 11, under a continuing threat of attack, alerts all over, particularly in Washington and New York—real concern—and to do what looks like protecting the status quo of the particular authority of existing agencies doesn't make sense. There will be those who feel our bill goes too far.

I don't mean to put words into Senator SPECTER's mouth because he is very eloquent, but this amendment suggests we have not gone far enough. The Commission deliberately decided not to take the National Security Agency, National Geospatial Intelligence Agency, and National Reconnaissance Organization out of the Department of Defense. The Commission was concerned, Dr. Zelikow said, about the balance between national and departmental guidance, and they didn't want to tilt the balance too far away from defense. The Commission's executive director portrayed the Commission's idea of a lean, creative command center this way:

Since terrorism poses such a revolutionary challenge to old ways of executive management in our national security bureaucracy,

counterterrorism requires an innovative response.

I believe the underlying bill does exactly that: real authority, decision-making authority, but lean and, may I add, mean, because the people who are threatening us are very mean.

The other thing the kind of structure we have created does is make it harder for the problems that many in the Senate and Committee on Intelligence cited in its report on prewar intelligence are worried about, which is group-think. There is an increased danger that persons at the top of the daily operations of the organizations—there is a danger that you will begin to have not the competition of ideas we want to see in our intelligence community and that we feel strongly will be encouraged by the national intelligence director we are creating by the language in the bill, the focus on independence and objectivity of intelligence and by the national counterterrorism center, which is ultimately the place where everybody who knows anything about a particular problem—in this case terrorism—and maybe the director will create other centers on weapons of mass destruction for particularly problematic countries like Iran or North Korea. Everybody in the Government who knows anything about that will sit down together to share what they have collected in the way of intelligence, share their analysis of it, and then plan jointly on how to stop it, how to deal with the threat represented by those situations.

So I believe Senator SPECTER's intentions are very good, and I admire him for them. But I think at this moment they are a bridge too far, both in the substance of where he would take us and also, frankly, in terms of the probability of any such measure passing Congress. There is an urgency to our deliberations, as we have said over and over again. I think if we reach too far, we may end up with nothing and nothing maintains the status quo, which failed us on September 11 and will fail us again unless we act.

I oppose the amendment. I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, by way of a very brief reply at this time, others will say the committee bill goes too far, and the committee bill stands between others who would reject any reorganization of the national intelligence community. The amendment I have offered doesn't go to that point.

The question is, what is the best way to reorganize the national intelligence community? When reference is made to the comments by Mr. Zelikow, the executive director of the 9/11 Commission, he made an analysis of S. 2811, which is a bill similar to the amendment now pending, but it is not the same. I think it is an overstatement to say that the 9/11 Commission rejects the amendment I have offered because it hasn't been considered by the Commission.

Former Senator Bob Kerrey, who was vice chairman of the Intelligence Committee during my tenure as chairman, called me, unsolicited, and said that he favored the elements which I had offered and thought it was preferable to have the national intelligence director with greater authority, which I was proposing.

I believe it is a fair statement to say that the 9/11 Commission would be pleased to see us move to establish a national intelligence director, whether it was along the lines of the committee report or whether it was along the lines of my amendment. I say, too, that it is important to establish a national intelligence director with as many powers as we can reasonably give the national intelligence director. I think that is what the 9/11 Commission is looking for. I don't think it can be accurately said that the 9/11 Commission rejects the substance of my amendment. Certainly, former Senator Bob Kerrey, who was a member of the 9/11 Commission, was not, as far as I can say from an unsolicited call. He said he liked the substance of what I was offering.

I think other Senators are going to be interested in participating in the debate. It was unknown, generally, what sequence would occur as to the offering of the amendment. But I think others will want to come and be heard.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I rise to oppose the amendment offered by Senator SPECTER. I do so with regret but with conviction. Regarding the phrase ''direct and control their day-to-day operations,'' if somebody wants to make the national intelligence director strong, that will certainly do it. The question is, what does that mean? What are the implications? That goes into the law, and then people have to interpret what that law means. I think if there is anywhere we want to be quite clear, we want the American people, through public law, to understand how far the national intelligence director can go and, on the other hand, to what point can that particular person not go.

We give that person all kinds of authority, and I think the appropriate authority, but when we get into managing and direct control of the day-to-day operations, that is a phrase which concerns me greatly, and I say so not as one Senator from West Virginia but as vice chairman of the Intelligence Committee.

My understanding is that this was brought up in the Governmental Affairs Committee and was defeated by a vote of 12 to 5, which is not nip and tuck.

I think the recommendations that were central to the 9/11 Commission were very forthright, and Senator COLLINS and Senator LIEBERMAN have reflected in their bill, which I am proud to cosponsor, very strong measures: a unified budget—oh, there are some people around town who are not very happy about that, which is all right—personnel, management authority over the national intelligence programs.

But then we come back to the phrase ''direct and control their day-to-day operations,'' and that makes me go to an argument which I am quite sure, since I was not on the floor, was used by both good Senators who are managing this bill. And that is, what I think they tried to do is they figured some people would want to have the national intelligence director stronger than what they proposed, and others would want to have the national intelligence director weaker than what they proposed. I heard cases on both sides.

As I hear those cases, I am drawn more back to the possibility of the one I think is the more sensible approach as a person who has been in government for a long time but also, quite frankly, I am interested in passing a bill and passing a bill that we are pretty sure will be doing no harm as a result of the passing of that bill. I am not sure the Specter amendment meets that particular test.

We have all these agencies, and we want to create some sense of order, but we do not want to get unnecessarily in the way in places where we should not of the combatant commanders, which Senator COLLINS mentioned in her excellent opening statement yesterday. There are some things which the military should be able to make decisions about outside of the national intelligence director, and they are allowed to so do on a modest basis, but on an important basis, by this bill.

The Collins-Lieberman bill strikes exactly the correct balance on this matter, and I think balance, generally speaking, is what works in this country and balance is generally what gets bills passed in a closely divided Senate.

Their bill explicitly acknowledges the connection and, at times, the tension with what I have just spoken about, and that is the needs of the military and the needs of the intelligence community.

The Collins-Lieberman bill accommodates the uniformed military's legitimate need to control its operations. I think that is right without short-changing the consumers of the intelligence, such as the President of the United States, Congress, and senior officials throughout the Government, such as the Secretary of State and the Secretary of Homeland Security.

Their bill correctly recognizes the new national intelligence director will have to rely on the expertise of his newly created deputies which are left, to my way of thinking, in their bill very intelligently just floating a bit so that he can decide wisely how best to do that rather than decide everything in a period of a week or two.

I think Chairman Kean and Vice Chairman Hamilton have endorsed the approach contained in the Collins-Lieberman bill. That would be good

enough for me on most matters, and it certainly is on this matter. The notion that the national intelligence director established under this bill would not be sufficiently empowered to effectively manage the intelligence community is not borne out when one reads this legislation, and that is what they are doing. They are doing the managing of the national intelligence aspect.

Without going on at great length, I like the balance. It is the nature of this body to seek out that kind of balance. We have to be realistic that we are faced in the days ahead with some fairly strong probable assaults upon this bill by those from the Armed Services Committee and perhaps some from other committees, and our strength in being able to get a bill passed, in knowing we passed a good bill, is by sticking to a moderate and centrist course which, in fact, is quite radical in terms of everything which has taken place since the National Security Act of 1947. This bill is an enormous update.

I just wish to be understood as being strongly for the approach of Senator COLLINS and Senator LIEBERMAN. I thank the Presiding Officer.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from West Virginia for his excellent comments. He states the case very well.

There are two final points that I would like to make on Senator SPECTER's amendment, and that is, when we asked Philip Zelikow, the executive director of the 9/11 Commission, to comment on this, he gave us a history of why the Commission specifically rejected this approach, and we talked about many of the reasons.

But one other that he mentioned is that one damaging consequence of stripping NSA, NGA, and NRO out of the Department of Defense is that then the Pentagon might well feel obligated to recreate the capabilities within the Department at great expense and creating many more opportunities for bureaucratic conflict. That was a point made by the executive director in expressing his opposition to Senator SPECTER's amendment and in giving us an insight into why the Commission specifically rejected the route taken in this amendment.

I also note that Senator SPECTER's amendment, while it is intended to create clear lines of authority between the NID and the combat support agencies, in reality could well create much ambiguity and confusion. While the amendment gives the NID supervision, direction, and control over these combat support agencies, it keeps them housed in DOD buildings, on DOD land, and the amendment does not take away from the Secretary of Defense the direction and control he currently has over these agencies.

For example, the law that created the National Imagery and Mapping Agency, which is now the National Geospatial-Intelligence Agency, establishes that Agency under the authority, direction, and control of the Secretary of Defense. Yet under the Specter amendment, the NSA, the NGA, and the NRO would fall under the line authority of both Agencies. I think that would create tremendous confusion and ambiguity.

Mr. President, I see the time for the vote has arrived.

The PRESIDING OFFICER. The next 2 minutes will be equally divided by the proponents and opponents prior to the vote occurring at 4:30.

Mr. SPECTER. Parliamentary inquiry: I believe we have 2 more minutes until 4:30.

The PRESIDING OFFICER. And those 2 minutes will be equally divided.

Mr. SPECTER. I seek recognition to make a comment about the pending amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, we can get more into the details on rebuttal as to what Senator COLLINS has said. I do not think it is accurate that we are taking away key authority from the Department of Defense, but I want to print in the RECORD a letter signed by 14 Senators objecting to the committee bill saying that it ''does not give the NID additional authorities will be required to provide the unity of leadership and accountability necessary for real intelligence reform. In particular, we feel strongly that the NID must have day-to-day operational control of all elements of the Intelligence Community performing national missions.'' It is signed by Senators ROBERTS, SHELBY, DEWINE, HATCH, LOTT, SNOWE, VOINOVICH, BAYH, GRAHAM, WYDEN, BOND, HAGEL, CHAMBLISS, and myself. There is the current chairman, Senator ROBERTS, and three prior chairmen, Senator SHELBY, Senator GRAHAM, and myself.

I ask unanimous consent that this be printed in the RECORD together with a memorandum from me to the members of the Senate Intelligence Committee dated December 5, 1995.

A December 9, 1996 memorandum has already been printed in the RECORD.

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

U.S. SENATE,
Washington, DC, September 20, 2004.

Hon. SUSAN COLLINS, *Chairman,*
Hon. JOSEPH LIEBERMAN, *Ranking Member,*
Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN COLLINS AND SENATOR LIEBERMAN: We would like to congratulate both of you for your hard work to draft legislation to reform and strengthen the Intelligence Community. We have covered much ground over the last few months, unraveling the complicated issue of intelligence reform. As a result of your outstanding leadership, we are close to enacting meaningful reform. We understand that your bill includes many important provisions, particularly the creation of a National Intelligence Director (NID) with strong budget authority.

We are writing to you, however, to express our serious concern that the current draft of the bill, as described by your summary and after review by Governmental Affairs Committee members and staff, does not give the NID additional authorities that will be required to provide the unity of leadership and accountability necessary for real intelligence reform. In particular, we feel strongly that the NID must have day-to-day operational control of all elements of the Intelligence Community performing national missions. To fulfill the historic intent of the National Security Act of 1947, we must provide the NID—as head of the Intelligence Community—the additional authorities necessary to match the position's responsibilities and to ensure accountability. To address these concerns, we request the opportunity to meet with you prior to any further committee action on the legislation.

In addition to day-to-day operational control of all elements of the Intelligence Community performing national missions, some members also believe that we must either explicitly create a new agency, or at least provide the NID with supervision, direction, and control similar to a department or independent agency head.

Clear lines of authority between the NID and our national intelligence agencies, extending beyond budgetary control, are critical to our success in countering 21st Century national security threats. There must be no doubt in anyone's mind that the NID is in charge and is accountable.

Thank you for you leadership under very challenging circumstances, and we look forward to meeting with you prior to the committee mark-up of intelligence reform legislation. Working together, we can achieve the real intelligence reform that we all seek.

Sincerely,

Pat Roberts, Mike DeWine, Trent Lott, George V. Voinovich, Bob Graham, Christopher S. Bond, Saxby Chambliss, Richard Shelby, Orrin Hatch, Olympia Snowe, Evan Bayh, Ron Wyden, Chuck Hagel, Arlen Specter.

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, December 5, 1995.

To: Members, Senate Select Committee on Intelligence.
From: Arlen Specter.
Re Ames Damage Assessment Inquiry.

On November 29, 1995, Charlie Battaglia, Fred Ward and I and Gerry Prevost, from CIA's Office of Inspector General, went to the home of L in Springfield, VA, to take his testimony because L advised that his medical condition was such that he could not come to the Committee. The deposition lasted about one hour and 45 minutes., The transcript is available for your review.

L began working for the CIA in 1950 and during the period from 1980 to 1991, L was Chief of Reports and Requirements in CIA's Soviet East European Division. He was responsible for determining the quality of Soviet sources, assessing the authenticity of the intelligence, and disseminating those reports to policymakers.

L readily conceded that he knew intelligence data came from Soviet controlled sources and that he disseminated such data to the highest levels of our government without disclosing the fact that it came from such controlled sources.

When I expressed shock at this, L confidently responded that he had acted entirely properly because disclosure of the controlled source would have made it even harder to ''sell'' the intelligence to policy makers, there was no reason to believe the Soviets used deception, no customer could use it unless his unit gave permission, and no customer would make any decision based on one or two documents.

L boasted that often U.S. general officers came to him directly for assessments of Soviet information much to the consternation of his division director.

When L was told that his successor, Z, denied knowing that such intelligence data came from a source known to be controlled by the Soviets, L responded ''bullshit.'' Z received only a letter of reprimand for passing on intelligence data from Soviet controlled sources without appropriate disclosures.

It is had to comprehend: (1) how L failed to understand that his conduct posed a grave threat to U.S. national security and was an unconscionable arrogation of power unto himself; (2) how his superiors (some of whom reportedly knew what he was doing) could permit him to function in this manner for so long; and (3) why the Agency has not turned heaven and earth to root out this kind of attitude and conduct. From the Ames case and other matters, L's conduct and attitude appears to represent a deep-seated institutional problem for the Agency.

Detailed questioning must be undertaken of the supervisors of L and Z, including the Directors, to determine how this could have gone on so long. Extensive work remains to be done to trace to whom the controlled data went, what decisions such data influenced and what damage the U.S. sustained from such decisions.

AMENDMENT NO. 3711

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, do I have 1 minute remaining before the vote begins?

The PRESIDING OFFICER. The Senator has 1 minute.

Mrs. HUTCHISON. Mr. President, I hope my colleagues will support this air cargo security amendment. This is an amendment that the Senate has voted on twice and passed. It will add significantly to the security of our aviation community. The airports and the top of the airplane are very safe. We have done a super job of creating those safe areas, but what we have not done is matched that with cargo security, what is in the belly of the airplane. We want a seamless aviation system, and with this amendment I think we will have the safest aviation system in the world.

I am very proud to have the support of so many of my colleagues, and I hope we send a strong message that this amendment should be added to the final bill. I appreciate the support of the chairman, the ranking member, the chairman of the Commerce Committee, and the Aviation Subcommittee as well.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I urge support for Senator HUTCHISON's amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I ask unanimous consent to speak for not more than 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I rise to support Senator HUTCHISON's amendment. It really strengthens the basic bill that we brought before the Chamber. It would reorganize our intelligence community to better deal with the threat of terrorism. We want this core proposal to be a vehicle for responding to the other recommendations of the 9/11 Commission and to close as many of the points of vulnerability that we have in America to terrorists as we possibly can.

The Commission said major vulnerabilities still exist in cargo and general aviation security. This amendment would go a long way toward ending those vulnerabilities. I thank the Senator from Texas, and I urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask unanimous consent that following the conclusion of the vote I be recognized to speak in opposition to the Specter amendment for 10 minutes.

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

The question is on agreeing to Hutchison amendment No. 3711. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from New Jersey (Mr. CORZINE), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 190 Leg.]

YEAS—96

Alexander	Dole	Lott
Allard	Domenici	Lugar
Allen	Dorgan	McCain
Baucus	Durbin	McConnell
Bayh	Ensign	Mikulski
Bennett	Enzi	Miller
Biden	Feingold	Murkowski
Bingaman	Feinstein	Murray
Bond	Fitzgerald	Nelson (FL)
Boxer	Frist	Nelson (NE)
Breaux	Graham (FL)	Nickles
Brownback	Graham (SC)	Pryor
Bunning	Grassley	Reed
Burns	Gregg	Reid
Byrd	Hagel	Roberts
Campbell	Harkin	Rockefeller
Cantwell	Hatch	Santorum
Carper	Hollings	Sarbanes
Chafee	Hutchison	Schumer
Chambliss	Inhofe	Sessions
Clinton	Inouye	Shelby
Cochran	Jeffords	Smith
Coleman	Johnson	Snowe
Collins	Kennedy	Specter
Conrad	Kohl	Stabenow
Cornyn	Kyl	Stevens
Craig	Landrieu	Sununu
Crapo	Lautenberg	Talent
Daschle	Leahy	Thomas
Dayton	Levin	Voinovich
DeWine	Lieberman	Warner
Dodd	Lincoln	Wyden

NOT VOTING—4

Akaka	Edwards
Corzine	Kerry

The amendment (No. 3711) was agreed to.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 10 minutes.

AMENDMENT NO. 3706

Mr. WARNER. Mr. President, I rise in opposition to the Specter amendment. I wish to compliment the managers of the bill, Senators COLLINS and LIEBERMAN. I thought their arguments were overwhelmingly persuasive in support of the President's position and indeed the 9/11 Commission that these agencies—the National Security Agency; the National Geospatial-Intelligence Agency, the former Mapping Agency, as we knew it; and the National Reconnaissance Office—have important intelligence functions. They are collection agencies. They must remain under the managerial supervision of the Secretary of Defense. I feel ever so strongly about that.

These three agencies are designated in law as combat support agencies, servicing our troops, the men and women of the Armed Forces wherever they are in the world facing harm's way, today, tomorrow, and in the future.

The President announced, on September 8, that these three agencies would not—I repeat, would not—be moved from the Department of Defense. This decision was based on two very important principles: One, no reform measures that the President advocates should disrupt ongoing operations in the war on terrorism. I am certain all colleagues fully appreciate the sensitivity of that extremely important decision and principle not to move these three agencies. Secondly, no ambiguity should be introduced in the chain of command, from the President through the Secretary of Defense down to the combatant commanders. That is vital to the war on terrorism and indeed other military operations.

These three agencies are designated combat support agencies providing direct intelligence support to the unified combatant commanders currently fighting in Iraq, Afghanistan, and in other theaters.

The Secretary of Defense is accountable to the President. Under law—I shall turn to the law momentarily. To ensure that these agencies provide the proper intelligence to our military customers, the Secretary of Defense must be able to direct them in executing their operational missions.

I would like to pause for a minute and draw to my colleagues' attention the law. It reads, for the Secretary of Defense:

> The Secretary of Defense, in consultation with the Director of Central Intelligence, shall—
>
> (1) ensure that the budgets of the elements of the intelligence community within the Department of Defense are adequate to satisfy the overall intelligence needs of the Department of Defense. . . .

Further on down it reads:

> (4) ensure that the elements of the intelligence community within the Department of Defense are responsive and timely with respect to satisfying the needs of operational military forces. . . .

I do not see how the amendment of my colleague from Pennsylvania modifies the existing law, and that is imperative if this amendment is to be effective.

I draw my colleagues' attention further to the law, and that is title 10 with respect to the Chairman of the Joint Chiefs. I read from section 193:

(a) COMBAT READINESS.—(1) Periodically (and not less often than every two years), the Chairman of the Joint Chiefs of Staff shall submit to the Secretary of Defense a report on the combat support agencies. Each such report shall include—

(A) a determination with respect to the responsiveness and readiness of each such agency to support operating forces in the event of a war or threat to national security; and

(B) any recommendations that the Chairman considers appropriate.

That law would have to be modified in some way were this amendment to be adopted.

So, in conclusion, Mr. President and colleagues, I foresee a potential disruption to operations were this amendment to become law. Numbers are classified, but approximately one-half of the employees of these agencies are Active-Duty military personnel.

In addition to national requirements, these agencies provide great volumes of tactical-level support to the warfighter.

Also, in existing law, I draw to my colleagues' attention that the Under Secretary of the Air Force is dual-hatted as a Director for the NRO. So that, too, would have to be amended and changed. Furthermore, the Director of the NSA is dual-hatted. He is a Deputy Commander of Strategic Command for Information, warfighting responsibility.

So in conclusion, I strongly support the position of the distinguished chairman and ranking member and urge colleagues to vote against this amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have listened with a keen interest, as I always do, when the Senator from Virginia speaks. The concerns which I have seen in my tenure on the Intelligence Committee and as chair—and I served with the Senator from Virginia on the Intelligence Committee—is the dominance of the Department of Defense on the budget and the lack of coordination with the other intelligence agencies, the Central Intelligence Agency, and the counterintelligence branch of the FBI.

The citations of authority which the Senator from Virginia raises can all be accommodated. In a very careful way, very carefully crafted, we have left the Department of Defense with the necessary intelligence gathering for them to perform their mission and their function.

When the national intelligence director has overall supervision and management, it does not mean that the Secretary of Defense will not have access to information from the NRO or the NSA or the other branches. When we hear those citations of authority, they can all be molded consistent with the amendment I have offered, which, as the most recent enactment, governs and dominates.

So I know the sincerity and I know the perspective of the chairman of the Armed Services Committee. When I had introduced S. 1718 back in April of 1996, and it was referred to the Armed Services Committee, it was emasculated, really, on a turf struggle. I think there is a very heavy overtone of the turf battle which is present here this afternoon at this moment.

Mr. WARNER. Mr. President, the one thing we want to avoid is patchwork legislation. I have drawn to the attention of my colleague—

Mr. SPECTER. Mr. President, I yield the floor. I had the floor, but I do yield it.

Mr. WARNER. I thank my colleague. But, I say to the Senator, I would be happy to enter into a colloquy with you on this point.

Mr. SPECTER. Then in that event I will stay standing.

Mr. WARNER. I would hope you do so.

I pointed out specific provisions of the law requiring certain accountability of the Secretary of Defense and the Chairman of the Joint Chiefs. We do not want to do patchwork legislation.

My understanding, after reading and studying your amendment, is you take these three entities out of the Department of Defense. I do not read into the amendment where there is a residual authority left in the Secretary to perform the functions as prescribed in title 10 and, to some extent, title 50.

Mr. SPECTER. Mr. President, through the Chair, I would inquire of the Senator from Virginia, what does he see which would stop those various officers from complying with those requirements and still allow the national intelligence director to have overall management? That is my question to the Senator from Virginia.

Mr. WARNER. I will wait for the Senator from West Virginia to answer. You directed it to the Senator from West Virginia.

Mr. SPECTER. I hadn't meant to promote Senator WARNER.

Mr. WARNER. I am trying to inject a little lightheartedness.

Mr. SPECTER. If you are confused on the substance of the question, maybe the court reporter could repeat it.

Mr. WARNER. I say to my good friend, a little humor now and then is well advised. But I understand precisely the question directed to me. Let us read your amendment. Would you read your amendment and show me where that residual authority under titles 10 and 50 are left in the Secretary of Defense?

Mr. SPECTER. There is nothing in the amendment which takes the so-called residual authority from the Secretary of Defense. The amendment gives to the national intelligence director management and supervision, but it does not undercut the directions of the statutes to which you have referred.

Mr. WARNER. I would draw that argument to the attention of the distinguished manager of the bill. My understanding, in reading some of your comments, is that I do not find in this amendment where there is a clear delineation of authority and that managerial responsibility, as required under titles 10 and 50, remains in the Secretary of Defense.

Ms. COLLINS. If the Senator will yield on that point, I think this points out the confusion and ambiguity I pointed out earlier due to the way the Specter amendment is drafted. I agree that it creates confusion and also that the implications of substituting the national intelligence director for the Secretary of Defense throughout the laws creating these agencies creates a lot of unintended problems. That is one reason I believe this amendment should be defeated.

Mr. SPECTER. Mr. President, the concept of unintended consequences is not an unusual argument. It can be attenuated in many directions. My submission to this body is that the amendment is plain on its face, that it seeks to create a national intelligence director who has the authority to manage the intelligence community. When the Senator from Virginia cites responsibilities in existing law, there is nothing in my amendment which undercuts that law, nothing at all. Ambiguity, like beauty, is in the eye of the beholder, and in this situation, on the face of the amendment, there is no ambiguity.

Mr. WARNER. Mr. President, I am reading from section 305, Defense Intelligence Agency. I believe that is clear on the DIA, but I do not see it with reference to the National Reconnaissance Office. ''The Director of the National Reconnaissance Office shall be under the direction, supervision, and control of the NID.'' I just see no residual managerial authority left in the Secretary of Defense to fulfill his statutory requirements under titles 10 and 50.

''Line of authority: The Director of National Reconnaissance shall report directly to the national intelligence director regarding the activities of the National Reconnaissance Office.'' I mean, there is the clear English language.

I say to my good friend, he may be well intentioned, but I am somewhat at a loss to find any reference in this amendment that preserves that residual responsibility which you have represented to the Senate.

Mr. SPECTER. Mr. President, I regret the Senator from Virginia is at a loss, but that doesn't affect the plain language of the amendment and the fact that it doesn't disturb the responsibilities under the section cited by the Senator from Virginia.

Mr. WARNER. Might I just hand you the amendment and ask you to point to the language which you feel leaves the residual authority in the Secretary of Defense?

Mr. SPECTER. I think the amendment speaks for itself, I say to Senator WARNER.

Mr. WARNER. I have given every opportunity to my colleague. I stand by my representations to my colleagues and I support the managers of the bill in having this amendment defeated.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, the bottom line of the Specter amendment is that it would sever the reporting relationship between the heads of these three combat support agencies and the Secretary of Defense. I don't think that makes sense. I understand these three agencies serve consumers of intelligence other than the Pentagon, other than the war fighters, but the Pentagon, the war fighter, is a very important consumer of the intelligence produced by these agencies, and that is why in our legislation we gave a lot of thought to how to handle the organization of these agencies and the reporting requirements.

We followed the advice of the 9/11 Commission. We kept a reporting relationship to the Secretary of Defense in acknowledgment of the combat support agency role played by these organizations. But in recognition of the fact that they also provide critical intelligence to the CIA and to a host of other agencies and to the President, we recognized that they are national as well.

What we have is a dual reporting responsibility to both the Secretary of Defense and the new national intelligence director. We do strengthen the control of the national intelligence director in significant ways in acknowledgment that these are national assets. We give the director control over the budget of these agencies. We allow the director to appoint the heads of these agencies with concurrence from the Secretary of Defense. The new national intelligence director can transfer personnel and funds. But we should not sever the link between those agencies and the Secretary of Defense. That would be a big mistake.

I urge my colleagues to oppose the Specter amendment.

I appreciate the support of the chairman of the Armed Services Committee.

Mr. WARNER. Mr. President, if the distinguished manager would yield for a question, the distinguished Senator from Pennsylvania, in support of his amendment, submitted for the record a letter dated September 20, 2004, signed by a number of colleagues. Here is a statement that I believe confirms the proposition I just enunciated, that the amendment would strip the Secretary of all of his responsibilities as existing in other statutes. I will read it:

We are writing to you, however, to express our serious concern that current draft of the bill, as described by your summary and after review—

It is addressed to the chairman.

—by the Governmental Affairs Committee members and staff, does not give the NID additional authorities that will be required to provide the unity of leadership and accountability necessary for real intelligence reform. In particular—

This is the operative sentence.

—we feel strongly that the NID must have day-to-day operational control of all elements of the intelligence community performing national missions.

It goes on. So it is very clear.

I would say that they do single out the term ''national missions,'' but these combat support agencies perform both national missions and tactical combat missions. They are not clearly separable. I mean the soldier, sailor, airman, and marine in the field today relies on satellite intelligence, which is a national mission of, say, the NRO, as well as the tactical support the NRO gives in various ways.

So I feel that as I read the amendment, it is totally contradictory of the desire of the 9/11 Commission, totally contradictory of the advice and counsel that the President has given the Congress, am I not correct?

Ms. COLLINS. The Senator is correct and his points are well taken. In reading to me the statement from that letter, the Senator has brought up another important point. Do we really believe that the national intelligence director should have line authority, day-to-day operational authority over all of those agencies? We know that the 9/11 Commission found that one reason the CIA Director was not as effective as he should be was he had too many jobs. He is head of the intelligence community, he runs the CIA, and he is the principal adviser to the President.

Under the formulation proposed by the Senator from Pennsylvania, we would be worsening that problem by giving the NID line authority, day-to-day operational authority. That person cannot possibly run all of those agencies and still coordinate, oversee, and manage the intelligence community.

So I believe this amendment goes too far. The Specter amendment essentially creates a de facto department of intelligence, as my colleague from Connecticut has pointed out, and that approach was specifically rejected by the 9/11 Commission. They specifically considered what should be the reporting relationships of these three combat support agencies. They rejected the approach taken by the Specter amendment. The administration also opposes that approach. Our committee rejected that approach. Our witnesses did not think that approach was wise.

I urge my colleagues to join in opposition to the amendment offered by Senator SPECTER.

Mr. WARNER. Mr. President, may I ask my distinguished colleague another question? This is a letter which is now submitted for the RECORD. It contains the names of about eight or nine other Senators. Have any of those Senators come to clarify this point? I would like to study what they have said.

Ms. COLLINS. Mr. President, in committee, some of the Senators who signed that letter participated in the debate. They did not convince the majority of the committee members. So far in this debate today, I don't believe that other advocates of this approach have yet been heard, but they may well be heard tomorrow. I know Senator BOND wants to speak. I think there are both proponents and opponents who still wish to be heard.

Mr. WARNER. I hope to be on the Senate floor when they do that. I wonder if the managers of the bill might acquaint them with the title 10 and title 50 provisions and ask where in the amendment those provisions are modified; otherwise, we are going to end up with a patchwork. That is one thing I know this chairman and ranking member do not wish to have.

Ms. COLLINS. The Senator's point is well taken.

Mr. LIEBERMAN. Mr. President, I thank Senator WARNER, who chairs the Armed Services Committee, which the chairman of our committee and this ranking member are privileged to serve on, for his statement, his reference to sections of statute that could be compromised and indeed overridden if this amendment of the Senator from Pennsylvania were adopted.

I thought that the colloquy between Senator WARNER and Senator COLLINS was very illuminating. I hope our colleagues had a chance to listen to it because it did, I believe, ultimately explain why this is a bridge too far, a motto from the Second World War, where the troops were sent to take one bridge too far—I have the feeling that Senator WARNER is going to know the background of this ''bridge too far'' reference—too far to hold the bridge and, as a result, the overall effort collapsed.

I am afraid this stretches too far and it weighs down the reforms we are trying to make. I believe the colloquy between Senator WARNER and Senator COLLINS is a great argument for the balance we have struck. We leave the line authority over these national intelligence agencies with the Defense Department. Without going into details—because it is classified—thousands of men and women in uniform serve in these agencies. So we want to leave that line authority with the Secretary of Defense but create a reporting authority to the national intelligence director because the NID will oversee the entire intelligence community.

This has been a wonderful learning experience for Senator COLLINS and me. We met with the head of the NSA, General Hayden, and the head of the NGA, General Clapper, and it was fascinating to hear the extent to which they are not only providing day-to-day technical military intelligence to help their personnel in the field at Central

Command today, and other commands, but the way in which they are also providing, because of their extraordinary capabilities, daily assistance and intelligence security to law enforcement agencies. That is the balance we tried to strike.

Mr. WARNER. Mr. President, I will pose a question to both managers, also members of the Armed Services Committee. As we proceed with this legislation, I am sure you are bearing in mind that we recall the aftermath of the 1991 war in which we participated in liberating Kuwait. You will recall as a member of the committee that General Schwarzkopf came before us at that time as sort of an after-action report. He talked in some detail about what he felt were shortcomings, particularly in the tactical intelligence, as to what he needed as a warfighter, as commander of the forces. That sounded alarms throughout the system. It startled many of us that that shortfall existed to that extent. Immediately the then Secretary of Defense and the successive Secretary of Defense—particularly Secretary Rumsfeld—have done everything possible to strengthen and remove the weaknesses that were in the system at that time.

As we proceed on this bill, I hope we have been mindful of particular tactical strengths that have been built into the existing system. It would be my fervent hope that nothing in this bill would roll back that progress. I wonder if the managers might address that, since both are members of the Armed Services Committee and have experience with the gulf war and what has been done in the ensuing years.

Mr. LIEBERMAN. I thank the Senator for his question, my chairman of the Armed Services Committee. It is an important question, one that Senator COLLINS and I weighed as we went through this process of accepting the assignment from the bipartisan leadership to consider and recommend to the Senate on the 9/11 Commission Report. We both take not only our responsibility to protect America's security under the Constitution seriously, we take our membership on the Armed Services Committee seriously. We have a purpose here. We want to put somebody in charge. The 9/11 Commission Report says the intelligence community doesn't have a leader. They are not coordinating their effort. As we do that, we said we want to make sure we don't compromise the quality and availability of intelligence to our warfighters. In fact, we believe our proposal not only doesn't compromise the quality of intelligence, but will ultimately improve it because there will be better coordination.

Even from within some of these agencies, national assets under the Defense Department, high officials said to us that they don't benefit, they don't think the military benefits, the warfighters benefit from the current ambiguity. Make those lines clear, and all the customers, if I can use that term, of intelligence will benefit, including the military.

Senator WARNER knows that in specific regard to the so-called TIARA, or tactical intelligence budget of the military, that remains totally within the Defense Department, and so do most of the joint military intelligence programs. So the answer is a resounding yes. We understand the uncertainty, the anxiety because of our bill. The 9/11 Commission recommendations represent change. It does take the budget authority and put it under the national intelligence director for national intelligence programs, including these three within the Defense Department. So we understand the anxiety. But we think we put together a balanced system that will not only first provide the No. 1 customer of intelligence, the President of the United States, with the best intelligence, with the coordinated unity of effort that he requires, but do the same for the warfighters. That is our firm belief.

Mr. WARNER. Mr. President, that is reassuring. If I might further inquire of my distinguished colleague, I was given today, and I expect the managers maybe earlier received this, in any event, this is the September 28 communication from the Executive Office of the President to the Senate. It is entitled ''Statement of Administration Policy.'' Has that been printed in the RECORD as yet today?

Ms. COLLINS. It has not.

Mr. WARNER. Mr. President, I ask unanimous consent, at this point in the debate or at the conclusion of our colloquy, to print this Statement of Administration Policy in the RECORD.

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

STATEMENT OF ADMINISTRATION POLICY

The Administration supports Senate passage of S. 2845, commends the Committee for its expeditious attention to these important intelligence reform issues, appreciates the Committee's efforts to include important provisions proposed by the Administration, including specific and detailed budget authorities for the National Intelligence Director (NID), and looks forward to working with the Congress to address the Administration's concerns outlined below. This measure will build upon actions already taken by the Administration, including in the President's recently issued Executive Orders, as well as upon the recommendations of the National Commission on Terrorist Attacks Upon the United States (9/11 Commission).

The Administration supports, in particular, the establishment of a NID with full, effective, and meaningful budget authorities and other authorities to manage the Intelligence Community including statutory authority for the newly created National Counterterrorism Center. The Administration will oppose any amendments that would weaken the full budget authority or any other authorities that the President has requested for the NID. The Administration will work in the legislative process to continue to strengthen and streamline intelligence reform legislation and to make adjustments to ensure that the President continues to have flexibility in combating terrorism and conducting intelligence activities.

The Administration is concerned about the excessive and unnecessary detail in the structure of the Office of the NID. In particular, provisions of S. 2845 would, in the aggregate, construct a cumbersome new bureaucracy in the office of the NID and in the Executive Office of the President with overlapping authorities. Legislatively mandated bureaucracy will hinder, not help, in the effort to strengthen U.S. intelligence capabilities and to preserve our constitutional rights. The Administration urges the Senate to delete or significantly revise these problematic provisions.

The Administration opposes the Committee's attempt to define in statute the programs that should be included in the National Intelligence Program; the Administration believes that further review is required. The Administration also believes that the Committee bill's provision relating to the NID's role in acquisition in major systems needs further study to ensure that the requirements of major consumers are met.

The Administration supports the strong information-sharing authorities granted to the NID in the bill. The Administration is concerned that the extensive authorities and responsibilities granted to the Office of Management and Budget (OMB) to implement an information sharing network are both outside of OMB's usual responsibilities and are inconsistent with the goal of ensuring a NID with effective authority to manage the Intelligence Community. These responsibilities should be granted to the NID in such a way as to remain consistent with section 892 of the Homeland Security Act of 2002. The Administration also believes that the detail in which the legislation prescribes the network is excessive; the network would be more likely to accomplish its beneficial goal if the bill simply provided the authority necessary for its establishment while leaving the details to be worked out and altered as circumstances require.

The Administration is also very concerned about the provisions that would purport to reorganize the President's internal policy staff by merging the National Security Council and the Homeland Security Council. Based on the constitutional doctrine of separation of powers, the Congress should not legislate and make permanent the internal organization of the President's own Executive offices or otherwise limit the flexibility needed to respond quickly to threats or attacks.

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, for the amounts requested by the President, and provided by the Congress, for the conduct of the Nation's intelligence activities.

The Administration opposes the provision in the Committee bill purporting to require the President to select a single department or agency to conduct all security clearance investigations. Although the Administration supports improvements to the security clearance process, this provision would impermissibly interfere with the President's need for flexibility in conducting security clearance investigations and does not recognize the special needs of individual intelligence agencies.

The 9/11 Commission found that the creation of a NID and National Counterterrorism Center, ''will not work if congressional oversight does not change too.'' The Administration notes that the bill does not address this vital reform component or the parallel recommendation to consolidate oversight for the Department of Homeland Security. The Administration believes the legislation

should also address the Commission's recommendation to ensure rapid consideration by the Senate of national security appointments.

The Administration notes that the Committee bill did not include Section 6 (''Preservation of Authority and Accountability'') of the Administration's proposal; the Administration supports inclusion of this provision in the Senate bill. The legislation should also recognize that its provisions would be executed to the extent consistent with the constitutional authority of the President: to conduct the foreign affairs of the United States; to withhold information the disclosure of which could impair the foreign relations, the national security, deliberative processes of the Executive, or the performance of the Executive's constitutional duties; to recommend for congressional consideration such measures as the President may judge necessary or expedient; and to supervise the unitary executive.

Mr. WARNER. Mr. President, I think it is a document that will be of value to all Members of the Senate if they have not received it.

I would like to draw the attention of the two managers to that operative paragraph 2:

The Administration supports, in particular, the establishment of a NID with full, effective, and meaningful budget authorities and other authorities to manage the Intelligence Community including statutory authority for the newly created National Counterterrorism Center. The Administration will oppose any amendments that would weaken the full budget authority or any other authorities that the President has requested for the NID. The Administration will work in the legislative process to continue to strengthen and streamline intelligence reform legislation and to make adjustments to ensure that the President continues to have flexibility in combating terrorism and conducting intelligence activities.

It is the operative phrase that ''the Administration will oppose any amendments that would weaken the full budget authority,'' and the preceding sentence where they said ''a NID with full, effective, and meaningful budget authorities.''

Mr. President, first, I would like to ask the two managers, is the purport of this paragraph consistent with all the several provisions in the bill that refer to budget authority, in their judgment?

Ms. COLLINS. Mr. President, to answer the question of the Senator from Virginia, I believe it is consistent. I direct the Senator's attention to the very first sentence of this Statement of Administration Policy where it states: ''The Administration supports Senate passage of S. 2845.'' That is the bill before us. That is the bill that is also known as the Collins-Lieberman bill.

Mr. WARNER. Without diminishing in any way that very encouraging sentence, if you go on to read the totality of this communication, there are expressly in here some reservations, but I will not get into that at this point in time.

I want to go back to these words, ''full, effective, and meaningful budget authorities.'' We just had a debate on the Specter amendment, which I believe, with no disrespect to my good friend and colleague, is an extreme viewpoint on this, and I am hopeful the Senate will not adopt it, but we do come back to this pivotal question, and tomorrow I hope to bring forth some amendments. Now that I see the expressed language and the Senator assured me her bill tracks this, I have to have some clarification—at least I shall seek clarification—of what is the remaining role of the Secretary of Defense with regard to those portions; namely, these three combat agencies, together with DIA, what is the residual area of collaboration, jointness, in the preparation of the budget—preparation is part 1—and then the execution of the budget after it goes through the authorization and appropriations process and begins to come back to the several departments and agencies.

So let's talk about what the Senator believes this language—which is consistent, as she says, with the language in the bill—I presume the Senator's language would not be modified or changed by this—what is left to the Secretary of Defense in regard to the budget authority?

Ms. COLLINS. Mr. President, to respond to the question of the Senator from Virginia, our bill makes very clear that the budgets for the tactical intelligence programs remain under the authority of the Secretary of Defense. That is consistent with the position of the administration, and it is also consistent with the position of the 9/11 Commission.

What we are seeking to do is to put national intelligence assets—the budget for those programs—under the national intelligence director and, indeed, much of the budget for these agencies is currently within the National Intelligence Program, or what is now known as the NFIP, the National Foreign Intelligence Program, because as the Senator is well aware, these agencies are providing intelligence not just to the combatant commanders, the troops, DOD, but as one of the generals with whom we met told us, he talks far more often to the Director of the CIA than he does to the Secretary of Defense.

Mr. WARNER. Mr. President, I really think that is an important representation the Senator has made, but I do not read in this language of the communication from the White House the distinction that she draws between tactical and national. Can I refer the Senator again to this language?

Ms. COLLINS. If we look at the administration's legislative language they have sent up, they, too, exclude the tactical intelligence assets. I think what this language is intended to convey is, as one of our witnesses said—as many of our witnesses said—the worst thing we could do is to create a national intelligence director who did not have budget authority. That power of the purse is arguably the most important authority given to the NID, but no one, to my knowledge, has advocated giving the NID authority over the tactical intelligence in the Department of Defense.

Mr. WARNER. I draw the attention of the distinguished managers to the words ''the Administration will oppose any amendments that would weaken the full budget authority. . . .'' It is the word ''full.''

Ms. COLLINS. Yes, that the President has requested for the NID.

Mr. WARNER. To me ''full'' is the whole basket. It could be interpreted that way.

Ms. COLLINS. What I am telling the Senator is that if he looks at the language sent up by the administration, he will see—and if he looks at the language in our bill, he will see there has never been discussion in putting tactical intelligence—

Mr. WARNER. Mr. President, I acknowledge that, the JMIP and the TIARA in the language sent up. But it seems to me the writer of this could have been somewhat more explicit in the communication because this is an important communication to guide Senators desiring to establish their voting pattern in connection with the Senator's bill.

Ms. COLLINS. Mr. President, I say to the Senator, I, obviously, am not the author—

Mr. WARNER. I think I pressed the point far enough and I think the Senator from Maine has been very courteous in her responses. I just want to bring to the attention of colleagues, when this says ''full,'' it is your understanding it did not include the JMIP, the TIARA, and those programs; is that correct?

Ms. COLLINS. That is correct, other than there may be some programs that are now part of the JMIP that are not principally for—and I see my colleague from Michigan joined us; we had a long debate in committee about this—that are not principally used for joint military purposes, but rather are national intelligence assets, and an example of that would be DIA.

Mr. WARNER. I am privileged to be in this colloquy with my friends. I would like to have the assurance of the ranking member of the committee that he concurs in the statements just made by our distinguished Chair.

Mr. LIEBERMANN. Mr. President, my reflex is to say I do, but I must say I was distracted for a while, so I do not know everything the Senator said.

Mr. WARNER. The question is the language sent up by the administration did have a breakout of the budget authority as relates to certain parts of the overall programs performed by these combat agencies.

I ask our distinguished manager of the bill whether this language in the communication today which said the administration opposed any amendments, because I proposed to have an amendment tomorrow—it may be opposed by the administration, but I want to make sure that the phrase ''full budget authorities'' is not amending what they sent up by way of language.

Mr. LIEBERMAN. Mr. President, the sentence is subject to more than one interpretation. So I am not sure what the meaning of it is, but I can assure the Senator about what the intention of the underlying bill is and that is the way in which I look forward to continuing this discussion and debating any amendments the Senator might have.

I found a quote that may be reassuring to the Senator. It is from General Hayden, Director of the National Security Agency, when he testified before the House Select Committee on Intelligence on August 18 of this year about the 9/11 Commission recommendations. He said an empowered national intelligence director, with direct authority over the national agencies, including his own, should not be viewed as diminishing our ability or willingness to fulfill our responsibility as combat support agencies, which I found reassuring. That is certainly our intention and I hope the Senator from Virginia will find that reassuring as well. That, combined with the possibility that the administration might oppose one of the Senator's amendments, I hope will lead the Senator to reconsider.

Mr. WARNER. Well, time will tell. I ask unanimous consent to have printed at this point in the RECORD a copy of the administration—I think the Senator referred to it as a bill although it was never introduced—language they sent up which made a clear reference and distinction to what budget authority was given to the NID and what residual remains in the Secretary of Defense. Am I correct on that?

The PRESIDING OFFICER. Is there objection?

Ms. COLLINS. Mr. President, I have no objection. I think that would be helpful.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Reserving the right to object, and I will not object, my understanding is, as the Senator said, this is not a complete bill. It was legislative language for parts of what ultimately have been covered in our bill.

Mr. WARNER. Yes.

Mr. LIEBERMAN. I have no objection.

Mr. WARNER. It was a communication from the administration——

Mr. LIEBERMAN. Absolutely.

Mr. WARNER. I guess to the managers of the bill or the committee. Nevertheless, it is a document expressing the intentions, and the distinguished chairman has clearly indicated that her bill tracks that.

Ms. COLLINS. Mr. President, if the Senator will yield?

Mr. WARNER. Yes.

Ms. COLLINS. I do not want to give the impression that our legislation tracks the administration's legislation in all respects, because it does not. What I was saying to the Chair and to the Senator from Virginia is there has never been support for bringing the tactical intelligence assets, bringing the budget for those programs under the national intelligence director's control. Our legislation specifically carves them out and keeps them under the control of the Pentagon. So I am a bit perplexed by this debate because nobody is proposing what the Senator seems to be fearing.

Mr. WARNER. I asked that if a construction of this language we received today is full budget authority, it could lead someone to the conclusion that everything was transferred.

Ms. COLLINS. The full budget authority, in my view, applies to the national intelligence assets.

Mr. WARNER. Good. And if they had inserted that in there, it would have been clearer, I hasten to add. We are not going to debate this further. In fairness, having raised this question, I think the Senator has brought considerable clarification. It may be the administration may be more forthcoming about what they precisely meant by the use of full budget authority in the use of this communication, but let me proceed in my questioning with regard to the residual authority of the Secretary of Defense over those budgets in the combat agencies, and I would like to add DIA, which is also a combat agency.

As the Senator says in her bill, those sections which are tactical are in the discretion of the Secretary in the preparation of the budget, and he would collaborate with the NID in preparing those sections. Now, on the national intelligence collection, I think the chairman agrees with me that the soldiers, sailors, airmen, and marines utilize that in carrying out their tactical missions, although it classifies the NRO and the gathering in space as the national program. Am I correct? It does feed into the tactical portion?

Ms. COLLINS. The Senator is correct.

Mr. WARNER. So, therefore, should not the Secretary of Defense have a voice—and I would like to see how we can describe that voice—in the compilation of that budget for the national program which in part supports the efforts of the forces in the tactical missions?

Ms. COLLINS. I would say to the Senator that the Secretary already does have a voice. There is a requirement that as the national intelligence director develops the budget to be recommended to the President, he must do it in consultation with the Secretary of Defense and the Secretary of Energy for the part of the intelligence community that is under the Secretary of Energy's control, et cetera.

In addition, we create a new entity called the joint intelligence community council, which I think already has an acronym, on which the Secretary of Defense will serve, which serves as an advisory board to the national intelligence director.

I also point out to the distinguished Senator from Virginia that ultimately it is the President's call on the budget. These are recommendations made by the national intelligence director. It is the President who ultimately decides.

Mr. WARNER. Mr. President, that is very helpful. I wonder if the Senator's staff would provide for the RECORD at this point an insertion of those references in the bill which supports the Senator's very important representation to the Senate just now, that the Senator feels he has the consultation role and such other roles as to assure the Secretary of Defense that he has a voice in the preparation of the budget.

Ms. COLLINS. Those provisions are extremely clear in the bill. I do not see how they can be ambiguous.

Mr. WARNER. I just wanted to have the pages annotated. I think my colleague witnessed several colleagues today saying it would be helpful if we could get a clearer understanding of some things, and I think the RECORD today could be of help to those who want to see in the Senator's bill precisely those sections which underpin the Senator's important representation. I ask if the Senator might consider putting that into the RECORD.

Ms. COLLINS. I would be happy to put the provisions in the RECORD. I question why it is necessary when everybody has the bill available. It is on page 12, for example, lines 20 through 25, in describing what the national intelligence director shall do. It says:

> Developing and presenting to the President an annual budget for the National Intelligence Program after consultation with the heads of agencies or elements, and the heads of their respective departments . . .

I do not see how it could be clearer.

Mr. WARNER. Mr. President, I was not challenging the language. I was simply trying to get a reference. The Senator provided it, and I thank the chairman.

If I could transition to the second part of this, the budget is prepared and approved by the President. It is then acted upon by the Congress by authorization and appropriation and it goes to the NID. Am I correct?

Ms. COLLINS. After Congress acts.

Mr. WARNER. Yes.

Ms. COLLINS. And the law is signed by the President.

Mr. WARNER. Right.

Ms. COLLINS. The appropriation is received by the NID for the national intelligence program.

Mr. WARNER. Right.

Ms. COLLINS. Not for what is known as TIARA or JMIP.

Mr. WARNER. I thank the chairman. That portion of the budget then goes back to be administered by the Secretary of Defense; is that clear?

Ms. COLLINS. Which portion?

Mr. WARNER. That nonnational portion.

Ms. COLLINS. Correct.

Mr. WARNER. It goes back to the Secretary of Defense. I thank the distinguished chairman on that point.

I see on the floor my distinguished colleague, the ranking member of the

Armed Services Committee. I wondered, since he followed this colloquy and I know he has worked very hard in this area with the Senator from Virginia, have some of his concerns which he has expressed to me been touched on in this colloquy?

Mr. LEVIN. I wonder if the Senator from Virginia has the floor. Who has the floor?

Mr. WARNER. I think I have the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Virginia has the floor.

Mr. LEVIN. I ask unanimous consent I be able to respond to the Senator from Virginia without his losing the right to the floor.

Mr. WARNER. Mr. President, I think I have the floor. I am quite happy to yield to my colleague to respond to my inquiry.

Mr. LEVIN. On the first part of the inquiry, what is interesting to me, and ironic, is the Director of Central Intelligence has that same authority the chairman just read from page 12, line 20, that is provided to the NID, which is to develop and present to the President the annual budget for the national intelligence program. That is the same authority as exists in current law to the intelligence director. So there is no change in terms of presenting and developing the budget.

Where the real changes take place are after the budget or after the appropriation is adopted, and then it depends—then the law will change who it is that executes that budget authority. That is where we get very complicated changes.

I think the discussion and debate is very important, that we analyze which specific programs, projects, and activities, budget execution—not presentation or preparation—but execution is transferred to the NID from where it currently is. That is where I think we all would benefit from a description of specific programs which are not transferred. There are some in the tactical area. But there are also some that are transferred—very few, perhaps 3 percent of the 80 percent of the budget that is transferred, in terms of budget execution to the NID—that in my judgment should not be transferred. A very tiny, few programs, including the intelligence—the J–2 programs that are out in the combatant commanders, including the communications infrastructure between the JCS and the combatant commanders. Those specific programs—and I know my good friend from Virginia knows these programs—those specific programs clearly belong in the Defense Department's budget execution, in my judgment. However, they are transferred.

To try to answer the Senator's question, I think it would be very illuminating, in addition to what he has asked for, if we could take some examples, and there are very few, of some programs where budget execution is transferred to the NID that should not be. I emphasize again, so this is not mischaracterized, I am talking here about less than 3 percent of the 80 percent of the budget which is transferred.

Ms. COLLINS. Mr. President, I apologize for interrupting the Senator.

Mr. LEVIN. No, I am done.

Ms. COLLINS. The leaders have been waiting for Senator LIEBERMAN and me since 5:30 for a meeting and they have summoned us again. I did not want to walk off the floor without explaining to my distinguished colleagues the fact that we have already kept our leaders waiting for more than 20 minutes.

Mr. ROBERTS. Will the distinguished Senator yield?

Mr. WARNER. Yes, if I could make a preliminary statement, and then I will be glad to yield. As a matter of fact, I will yield the floor. If you seek the floor, I am going to yield it momentarily.

Mr. ROBERTS. I was going to ask a question of the distinguished floor manager. I thank the distinguished Senator from Virginia for his courtesy.

It is my understanding we are not going to vote on the Specter amendment as of this evening; is that right?

Ms. COLLINS. I am sorry, I couldn't hear the Senator.

Mr. ROBERTS. It is my understanding we are not going to vote on the Specter amendment as of this evening; is that correct?

Ms. COLLINS. The Senator is correct. The vote will occur tomorrow.

Mr. ROBERTS. Do we have an idea approximately what time tomorrow morning?

Ms. COLLINS. We do not. We have not been able to determine how many people still want to speak on the amendment. We are trying to accommodate those who do wish to speak.

Mr. ROBERTS. One Senator who is asking you some questions now would like to speak, and I would like to have 20 to 25 minutes, if that would be all right, speaking as the chairman of the Intelligence Committee. If I could have an understanding? I know you will work very hard and I know there has been a lot spoken tonight; I understand that. But I would like to speak in favor of the Specter amendment, if in fact that could be arranged, or have that understanding with the Senator.

Ms. COLLINS. I would certainly welcome that. Perhaps we can try with the help of the floor staff to order the series of speakers. We will make sure the distinguished chairman of the Intelligence Committee is protected in that regard.

Mr. LEVIN. I ask unanimous consent also that I be given 5 minutes in opposition to the Specter amendment tomorrow morning, and if I am not here because of the full committee meeting we have at Armed Services, that my statement be made part of the record at that time.

Ms. COLLINS. We hope the Senator will be here.

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

Mr. WARNER. Mr. President, first I thank the distinguished manager and ranking member for engaging in I think a very important colloquy. I wanted to make a record for some colleagues who have asked a number of questions, and I think we made an interesting record here that will help in their deliberations and thought processes.

I will have amendments tomorrow, hopefully to clarify some things which I feel should be clarified. They are constructive amendments, I say to the distinguished chair and ranking member, because I want to be cooperative and supportive of the President and your efforts. But I do feel very strongly that there are some amendments.

My colleague, Senator LEVIN, and I have worked together. It may well be we will jointly put in some amendments tomorrow on this subject. Not in a manner of a turf battle. I am really quite in temper that that word continues to be brought up, because I personally am striving to do what is best for this country and to make our intelligence system stronger as a consequence of this legislative process. I think it can be achievable. But I have to get clarifications. The language in this message that came up today about full budget authority seems to be somewhat contradictory of some other things. But we will work it out.

I thank the distinguished managers and I yield the floor.

Mr. LIEBERMAN. Briefly, I thank Senator WARNER for his statement in opposition to the Specter amendment and for the questions which he raised which I think have been helpful and clarifying. No doubt this discussion will continue in the days ahead.

I thank the Chair.

Ms. COLLINS. 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 the order for the quorum call be rescinded.

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

Mr. INHOFE. Mr. President, it is not very often that things come up that require an immediate fix, but I think one has.

First, I ask unanimous consent I be recognized to speak as in morning business.

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

(The remarks of Mr. INHOFE pertaining to the introduction of S. 2855 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. INHOFE. 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. VOINOVICH. 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. VOINOVICH. Mr. President, I rise to address the critical issue that is before the Senate—reform of our intelligence community and restructuring of the Federal Government to enhance our ability to wage the global war on terror and protect our Nation from other threats.

I commend Senators COLLINS and LIEBERMAN and their staffs for their hard work and leadership on this issue, and I am proud to be a cosponsor of this legislation.

I also thank the Senate leadership for making this a priority. There is no issue more important for us to address. In fact, I believe this legislation is the most important I have worked on since coming to the Senate in 1999.

The war on terror is unlike any conflict we have fought—covert holy warriors seeking to infiltrate our society and those of our allies to do us grievous harm. Against this radical enemy, intelligence is of the greatest importance. We must do everything we can to strengthen our intelligence capabilities. If you think of what we need to do about terrorism, we need to attack, we need to prevent, and we need to prepare. Intelligence is the greatest weapon we have in all three of those categories.

Before I comment on this legislation before us, however, I would like to first offer some principles and thoughts that have guided my deliberations.

First, we must do no harm. Great progress has been made since September 11, 2001, to improve the operations of our intelligence community and make our country more secure. There is no greater evidence of that than when I travel in Ohio to various large urban areas. I am so impressed with the cooperation that now exists as contrasted to what was there before 9/11. Because we are making progress, we must be sure that we do not inadvertently set back our current efforts. We must implement additional improvements.

Second, we must not restructure the intelligence community to deal solely with the threat of terrorism caused by Islamic extremists, as pressing a concern as that is. There are many other threats that require close scrutiny by the intelligence community. Reform must address the threats that will confront America 10 and 20 years in the future in addition to those faced today.

For example, the United States must continue to monitor regional conflicts which have the potential to undermine stability in various parts of the world such as India, Pakistan, China, and Taiwan. Regional conflicts, such as between India and Pakistan, are motivated by political, social, and historical reasons unique to their own countries. In the event that regional conflicts should escalate to such proportions that chemical, biological, or even nuclear weapons would be used, as would be possible in the event of a conflict between India and Pakistan, U.S. interests certainly would be threatened. The intelligence community must remain keenly aware of what is happening in other areas of the world so that the U.S. is not only prepared and able to respond but so that we can do everything in our power to prevent such a crisis from happening.

The United States must also monitor threats presented by rogue nations such as North Korea, rogue states that have the ability to foster regional instability and harm U.S. interests. They, too, must be closely monitored as dictators such as Kim Chong-il look to enhance their power and position. If not, the U.S. risks strategic surprise which would be devastating to our national security interests.

Additionally, the United States must address the proliferation of weapons of mass destruction. These weapons have the ability to cause grave harm to Americans and life as we know it if found in the wrong hands. They could be used by terrorists against cities in the United States, they could be used in regional conflict, or they could be used by a rogue state to enhance its power.

Third, we should make it clear to the American people that the different perspectives presented on the Senate floor are legitimate. A review of the hearings held by various congressional committees during August and September demonstrated that many former Government officials who have had distinguished careers in senior national security posts hold contradictory opinions on the 9/11 Commission recommendations and related national security issues.

Fourth, reforming the Federal Government to address the challenges of global terrorism is going to take several years to accomplish. It is not going to happen that fast. It is my hope that during the next Congress we will address the critical challenges confronting the Federal law enforcement community, for example. For example, rationalizing responsibility and missions and personnel systems is vital to ensure that Federal law enforcement is best equipped to confront foreign terrorists operating in the United States.

I am pleased that we have addressed some of the needs of the Federal Bureau of Investigation in the legislation we are considering today. But much more remains to be done, and it is important for our national security to finish this job.

As my colleagues may know, I sponsored legislation that became law that requires the Office of Personnel Management to study Federal law enforcement personnel systems and recommend improvements. I was concerned that we were going forward with personnel changes and getting some coordination between those law enforcement agencies and the homeland security, but we were failing to do the same thing with law enforcement agencies that were outside of the Department of Homeland Security. The Office of Personnel Management has implemented that legislation. They have made some significant recommendations on how we can improve the relationships, classifications, and so forth, with those outside of Homeland Security. It would be my hope that we implement those recommendations.

Regarding the National Intelligence Reform Act of 2004, I strongly support creating a robust national intelligence director, but I have been wrestling with exactly how much authority we should give the new national intelligence director. I appreciate the balance that Senators COLLINS and LIEBERMAN were trying to achieve in their legislation. It is clear to me that these authorities should not be diminished.

In fact, in committee I offered an amendment that would give the national intelligence director reorganization authority over the national intelligence program so that the director could identify efficiencies and eliminate unnecessary duplication of effort. It is unfortunate that my amendment was weakened in committee, and I am still considering amendments to strengthen the management authority of the national intelligence director.

The intelligence community budget process is extremely complex. Indeed, the manner in which these agencies interact with each other is probably the most complicated interagency process in the Federal Government. The budgets of the 15 intelligence community agencies, including all those of the Armed Forces, are intertwined in the National Foreign Intelligence Program, the Joint Military Intelligence Program, the tactical intelligence and related activities.

The Collins-Lieberman legislation seeks to bring clarity to the situation by defining a national intelligence program. However, we may be able to improve this budget definition, and I will weigh all amendments to do so carefully.

At the same time, we must be careful not to erode the budget authority of the national intelligence director. I understand that some of my colleagues may offer amendments to give the national intelligence director a fixed term in an attempt to immunize this individual from political pressure. I would note that a host of other provisions, including a strong inspector general for the intelligence community and an ombudsman to specifically guard against political concerns, have been created to do exactly that.

Quite the contrary, a fixed term is unnecessary and could diminish the effectiveness of the national intelligence director. A close and trusting working relationship with the President is going to be key to the success of the effectiveness of the national intelligence director. We should not weaken this relationship by mandating a fixed-term appointment.

The Governmental Affairs Committee heard testimony from three former Directors of Central Intelligence, and all agreed that the national intelligence director should serve at the pleasure of the President. An incoming President should not be stuck with a national intelligence director from a previous administration.

I know that the Presiding Officer, in his former capacity as Governor of the State of Tennessee and as a member of the Bush Cabinet, understands that if this individual doesn't have the confidence of the President of the United States, his or her effectiveness is going to be diminished a great deal. So much of what this person can accomplish will have a lot to do with that relationship with the President because there are going to be situations where there are going to be differences of opinion. Finally, the boss has to decide them. If you have somebody there that has the job and doesn't have the confidence of the boss, we are in trouble.

Mr. President, although this legislation deals primarily with improving structured roles and missions, the human capital challenges confronting our intelligence community must not be overlooked.

In March of 2001—it seems like a long time ago—my Government Management Subcommittee held a hearing entitled ''The National Security Implications of the Human Capital Crisis.'' The panel of distinguished witnesses that day included former Defense Secretary James Schlesinger, a member of the U.S. Commission on National Security in the 21st Century. Secretary Schlesinger concluded his testimony with these remarks:

> As it enters the 21st century, the United States finds itself on the brink of an unprecedented crisis of competence in Government. The maintenance of American power in the world depends on the quality of U.S. Government personnel, civil and military, at all levels. We must take immediate action in the personnel area to ensure that the United States can meet future challenges. That fixing of the personnel problem is a precondition for fixing virtually everything else that needs repair in the institutional edifice of U.S. national security policy.

He was so right. Secretary Schlesinger's insightful comments were reinforced by the 9/11 Commission on page 399 of the report. The Commission said ''significant changes in the organization of the Government.'' The Commission went on to say:

> We know that the quality of people is more important than the quality of the wiring diagrams. Some of the saddest aspects of the 9/11 story are the outstanding efforts of so many individuals straining, often without success, against the boundaries of the possible. Good people can overcome bad structures, but they should not have to.

I will never forget that after 9/11 the first thing that came to my mind was we didn't have the right people with the right knowledge and skills at the right place at the right time. If you go back and look at all of the report, it gets back to that situation and also the fact that they weren't communicating with each other.

I am pleased that the Collins-Lieberman legislation includes some important human capital provisions. I offered an amendment in committee, which was unanimously accepted, that provides enhanced classification and pay flexibilities for intelligence analysts at the Federal Bureau of Investigation.

Specifically, my amendment enables the FBI to work with the OPM to develop new classification standards and pay rates for intelligence analysts. The amendment also allows the bureau to improve their performance management system for their intelligence analysts and establishes two congressional reporting requirements. The amendment was completely within the spirit of the 9/11 recommendations, which noted that the FBI should create a specialized and integrated national security workforce consisting of agents, analysts, linguists, and surveillance specialists who are recruited, trained, rewarded, and retained to ensure the development of an institutional culture with strong experience in intelligence and national security throughout the organization.

I thought the other incredible thing after 9/11 was the cry that went out: Can anybody speak Farsi? Can anybody speak Arabic? You would have thought that after the Persian Gulf war there would have been a very aggressive effort, because of the instability of the area, for us to bring in people who could speak Farsi and Arabic. If you looked at the State Department a couple years ago, you would have found we had all kinds of linguists who could speak fluent Russian. But the threat had changed. We didn't have the capacity to change with that threat. Hopefully, with this new national intelligence director, we are going to be able to have that flexibility.

It is my hope that this amendment will provide the Federal Bureau of Investigation with essential human capital flexibilities specifically targeted to building an elite cadre of intelligence analysts. In addition, Senator LUGAR and I will offer another amendment to the bill to improve the Presidential appointment process, which has been broken for decades. Over the coming days, I want to work with Senators COLLINS and LIEBERMAN on this amendment.

This amendment addresses a critical recommendation in the 9/11 Commission Report. It is a problem I have been examining for years. During my time in the Senate, I have found political appointees to be dedicated and diligent professionals who want to make a difference for our country. They often leave high-paying corporate jobs only to find their commitment to our Nation requires an increase in workload and a decrease in salary.

I talked to one individual who filled out the financial disclosure form and all that was required. He said that it cost him $200,000 to pay the professional people to do all the things that were required in this disclosure form that is now currently in effect with the Federal Government. I suspect that the President, when he appointed the Secretary of Education, had to go through all these forms, and so forth, and wondered to himself whether he ought to do it. Before they even begin to work for the Government, however, as I mentioned, they must first navigate the complex, turbulent, and outdated Presidential appointment process—an area where reviews and recommendations for improvement have gone unheeded far too long.

In 1937, a committee issued the first report on improving the Presidential appointment process. During the 67 years since this inaugural report, the appointment process has been formally examined 14 additional times. After such extensive reviews, it is disconcerting for this Senator that we have not been able to enact meaningful reform in this area.

To capture the essence of the problem, understand first that the number of politically appointed positions has grown from 286 to 3,361 over the past 4 decades. This increase is straining an already overburdened system. And the time it takes to complete an appointment has increased through the years from just over 2 months during the Kennedy administration to 8 months in the current administration. I think Secretary Rumsfeld said his team didn't go into place until 6 months after he had been appointed as Secretary of Defense.

Mr. President, 8 months is simply too long to fill an appointed position. I am afraid that if we do not update the current system for processing Presidential appointees, we run the risk of driving good people away from appointed Government service. Progress has been made on this issue during the last several years.

First, on February 15, the Hart-Rudman commission issued their report entitled ''The Roadmap for National Security Imperative for Change,'' which in part examined the Presidential appointment process. The Commission's final report observes: The ordeals to which outside nominees are subjected are so great, above and beyond whatever financial or career sacrifice is involved, so as to make it prohibitive for many individuals of talent and experience to accept public service.

Then on April 4 and 5, the Senate Committee on Governmental Affairs held 2 days of hearings on the state of the Presidential appointment process. During those hearings Paul Light from the Brookings Institution said:

> Past and potential Presidential appointees alike view the process of entering office with disdain, describing it as embarrassing, confusing, and unfair. They see the process as far more cumbersome and lengthy than it needs to be.

By the way, I held a hearing a couple weeks ago, and Paul Light was there,

and he reiterated that same statement he made in 2001.

On May 16, 2001, the Governmental Affairs Committee passed Senator Fred Thompson's bipartisan bill to streamline the Presidential appointments process that I cosponsored with Senators AKAKA, DURBIN, LIEBERMAN, and LUGAR. Although it passed the Governmental Affairs Committee in the 107th Congress, it did not pass the full Senate. When Senator Fred Thompson left the Senate, I promised him I would continue to push for appointments reform. Therefore, in April of last year, I reintroduced the Presidential Appointments Improvement Act, and today I urge my colleagues to pass this important proposal.

What happens is that after the President comes in and he goes through this line of getting people appointed, they get off on other things, and they forget about the problems they went through to get all their appointees. So it kind of goes to the bottom of the stack in terms of priorities. This 9/11 Commission implementation by the Senate gives us a wonderful opportunity to do something about this problem that has lingered for so many years.

I am certain all my colleagues have read the recommendations in the 9/11 Commission report. As you recall, one of the recommendations underscored the importance of improving the Presidential appointment process. Specifically on page 422, the 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 administration by accelerating the process for national security appointments. We think the process could be improved significantly so transitions can work more effectively and allow more new officials to assume their responsibilities as quickly as possible.

The 9/11 Commission report also noted that in 2001, the new administration, like others before it, did not have its team on the job until at least 6 months after it took office. In fact, I commented to people that after the length it took for the President to finally know he was President, we lost that period of time once the President was elected and started building his team; they were just concentrating on who was going to be the President. Once that was done, then they started to concentrate on who the people were going to be in the administration.

They did a great job of taking care of the initial people, but, as you know, it took a long time for them to start filling in that organization.

My amendment offers realistic governmentwide solutions to the problems identified by the 9/11 Commission and the 14 other Commission studies and reports that have detailed the importance of streamlining the Presidential appointment process.

The four main provisions of the amendment include streamlining the financial disclosure forms for executive branch employees. Two, requiring agencies to examine the number of Presidential-appointed positions and recommending to Congress which positions could be eliminated. We are asking them to do it. Three, allowing Presidential candidates to obtain a list of appointee positions 15 days after they receive their party's nomination so they will have an idea of the kind of people they have to look for if they are elected President of the United States. And four, requiring the Office of Government Ethics to review the conflict-of-interest laws.

The principles behind this amendment are simple, and given the bipartisan nature in which the original bill passed the Governmental Affairs Committee last Congress, I ask my colleagues to adopt this amendment. Although it will not solve all the problems with the appointments process outlined in the 9/11 Commission report, the amendment is an important first step for updating an outdated system.

I urge the Senate to support its adoption. Senator LUGAR and I will be working with Senator COLLINS and Senator LIEBERMAN to try to obtain their support for this amendment and to also work out any of the problems they may have with it.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I know the Senator from Kansas is waiting. I need to make a couple of very brief announcements, with the Senator's indulgence.

AMENDMENT NO. 3731 TO AMENDMENT NO. 3705

Ms. COLLINS. Mr. President, I have two amendments that have been cleared on both sides. Both of these amendments are second-degree amendments to my underlying amendment No. 3705 regarding Homeland Security grants. Therefore, I ask unanimous consent that the Inhofe-Jeffords second-degree amendment No. 3731, which is at the desk, be considered and agreed to, with the motion to reconsider laid upon the table.

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

The amendment (No. 3731) was agreed to, as follows:

(Purpose: To ensure the participation of the Under Secretary for Emergency Preparedness and Response in the Threat-Based Homeland Security Grant Program grantmaking process for nonlaw enforcement related grants)

In section 406 of the amendment, redesignate subsections (i) and (j) as subsections (j) and (k), respectively.

In section 406 of the amendment, insert after subsection (h) the following:

(i) PARTICIPATION OF UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.—

(1) PARTICIPATION.—The Under Secretary for Emergency Preparedness and Response shall participate in the grantmaking process for the Threat-Based Homeland Security Grant Program for nonlaw enforcement-related grants in order to ensure that preparedness grants where appropriate, are consistent, and are not in conflict, with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) REPORTS.—The Under Secretary for Emergency Preparedness and Response shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual report that describes—

(A) the status of the Threat-Based Homeland Security Grant Program; and

(B) the impact of that program on programs authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

AMENDMENT NO. 3732 TO AMENDMENT NO. 3705

Ms. COLLINS. Mr. President, I further ask unanimous consent that the Levin second-degree amendment No. 3732, which is at the desk, now be considered and agreed to, with the motion to reconsider laid upon the table.

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

The amendment (No. 3732) was agreed to, as follows:

(Purpose: To give the Secretary of Homeland Security greater flexibility in allocating funds for discretionary grants to local governments)

On page 36, strike lines 3 through 21, and insert the following:

SEC. 409. CERTIFICATION RELATIVE TO THE SCREENING OF MUNICIPAL SOLID WASTE TRANSPORTED INTO THE UNITED STATES.

(a) DEFINED TERM.—In this section, the term ''municipal solid waste'' includes sludge (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)).

(b) REPORTS TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Bureau of Customs and Border Protection of the Department of Homeland Security shall submit a report to Congress that—

(1) indicates whether the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in municipal solid waste are as effective as the methodologies and technologies used by the Bureau to screen for such materials in other items of commerce entering into the United States by commercial motor vehicle transport; and

(2) if the methodologies and technologies used to screen solid waste are less effective than those used to screen other commercial items, identifies the actions that the Bureau will take to achieve the same level of effectiveness in the screening of solid waste, including the need for additional screening technologies.

(c) IMPACT ON COMMERCIAL MOTOR VEHICLES.—If the Bureau of Customs and Border Protection fails to fully implement the actions described in subsection (b)(2) before the earlier of 6 months after the date on which the report is due under subsection (b) or 6 months after the date on which such report is submitted, the Secretary of Homeland Security shall deny entry into the United States of any commercial motor vehicle (as defined in section 31101(1) of title 49, United States Code) carrying municipal solid waste until the Secretary certifies to Congress that the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in such waste are as effective as the methodologies and technologies used by the Bureau to screen for such materials in other items of commerce entering into the United States by commercial motor vehicle transport.

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

Ms. COLLINS. Mr. President, I hope we can continue to work on the underlying amendment with the goal of having a vote on it shortly. I also want to announce to all of my colleagues that we do intend to vote on Senator SPECTER's amendment tomorrow. I recognize there are a few Senators who have not been heard on it who desire to be heard, but we do intend to conclude the debate and vote on Senator SPECTER's amendment tomorrow.

I thank the Chair.

AMENDMENT NO. 3731

Mr. JEFFORDS. Mr. President, I will never forget my visit to Ground Zero. I hope that September 11 is an event that will never be repeated, on any scale, in our country or anywhere in the world.

I share the goal of all my colleagues that our Nation be as prepared as possible, should such an event occur. However, in seeking to improve our capability to respond to terrorism, it is critical that we do not lose our capability to respond to natural disasters, which happen much more frequently than terrorist events.

The Inhofe-Jeffords second degree amendment to the Collins' amendment will ensure that as we seek to enhance our ability to respond to terrorist events, we do not lose our ability to respond to natural disasters.

I thank my colleagues, the chair and ranking member of the Government Affairs Committee and Senator CARPER, a cosponsor of the Collins amendment for agreeing to accept this amendment.

The role of a first responder, whether responding to a terrorist event or a natural disaster is, for the most part, the same. For decades, the Federal, State, and local governments in this Nation have partnered together to plan, prepare, respond, and recover from both minor and major natural disasters.

We have a robust system for responding to these events, authorized through the Stafford Act and executed through FEMA. My home State of Vermont has a long history with emergency management.

My colleague and friend, Senator Bob Stafford of Vermont, served as chairman of the Environment and Public Works Committee for many years and ushered the Stafford Act through Congress in 1974. The Stafford Act is the authorizing statute for emergency response activities at the Federal level, and it forms the basis for the emergency management system in this Nation. The Stafford Act gave structure to an emergency response process where virtually none existed in the past.

FEMA, which was formed in 1979 and incorporated into the Department of Homeland Security in the Homeland Security Act, is a robust agency, with extensive experience in all-hazards planning, preparing, response, and recovery. It has a tradition of providing quick response to people in immediate need.

As Chairman of the Environment and Public Works Committee during the 107th Congress, I recognized the need to provide assistance to our first responders. I was struck during my visits to the Pentagon and the World Trade Center in particular at the inability of first responders to communicate with each other. To combat this and the other shortcomings we observed, I introduced S. 2664, the Emergency Preparedness and Response Act of 2003 with my colleague Senator Bob Smith. The EPW Committee reported that bill on June 27, 2002.

During this Congress, Senator INHOFE and I worked together to introduce S. 930, the Emergency Preparedness and Response Act of 2003. The EPW Committee reported that bill favorably on July 30, 2003, by voice vote.

Before the formation of the Department of Homeland Security, I expressed grave concerns about the proposal to incorporate FEMA into the Department of Homeland Security. I was concerned at that time that the robust agency we saw jumping every hurdle after September 11, 2001 to provide assistance to World Trade Center and the Pentagon, and to hundreds of natural disasters each year, would give way under the pressure of the enormous bureaucracy of the Department of Homeland Security and lose its ability to respond quickly and effectively to disasters.

I remain concerned today. However, the administration prevailed and incorporated FEMA in DHS with the enactment of the Homeland Security Act of 2002.

Since the formation of DHS, FEMA has administered aid for 169 major disasters, 29 emergency declarations, and 172 fire management assistance declarations—all natural disasters. That is 370 communities that have received emergency assistance from the Federal Government and our Nation's first responders for natural disasters.

Over the last several weeks, we have seen record-breaking hurricanes rip through the southeast bringing high winds, flooding, tornadoes, and beach erosion. In my home State of Vermont, we recently had a disaster declared for extensive flooding throughout the State.

The Inhofe-Jeffords second degree amendment ensures that FEMA, the agency responsible for administering our Nation's disaster response programs, is involved in the distribution of funds to first responders and that grants made are consistent with the Stafford Act. This ensures that we will not lose the level of preparedness and response that we have seen at work in States like Florida over the last few weeks.

We obviously need to be prepared for the small percentage of the time when a terrorist event may occur, but we cannot ignore the day-to-day operations, which affect so many lives.

I thank my colleagues, the distinguished chair and ranking member of the subcommittee as well as Senator CARPER, a cosponsor of the Collins amendment, for working with us to incorporate our second degree into the underlying amendment.

The PRESIDING OFFICER. The Senator from Kansas.

NORTH KOREAN HUMAN RIGHTS ACT OF 2004

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the pending business be set aside and that the Foreign Relations Committee be discharged from further consideration of H. R. 4011 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. 4011) to promote human rights and freedom in the Democratic People's Republic of Korea, and for other purposes.

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

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Brownback amendment at the desk be agreed to, the bill, as amended, 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 amendment (No. 3728) was agreed to.

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

The bill (H. R. 4011), as amended, was read the third time and passed.

Mr. BROWNBACK. Mr. President, for the information of my colleagues, what we are considering is something that has been negotiated extensively. It has passed the House of Representatives. It has been negotiated extensively in the Foreign Relations Committee amongst the members interested. It is on the issue of North Korean human rights, or the lack thereof, and U.S. policy.

This bill establishes for the first time—the first time in at least a generation—a human rights principle toward North Korea. Everybody is familiar with the six-party talks that are going on regarding North Korea and nuclear weapons and the threatening nature of the North Korean Government, of its testing missiles, of it moving military operations to threaten people around the country, in South Korea, in Japan, and in particular the United States to give them direct aid to guarantee their security, and issues mostly surrounding the nuclear weapons development.

This bill brings into focus a United States Government position on North Korean human rights abuses, which are extensive, probably the worst human rights abuses in the world. It is at least in the top two or three, and that is saying something when you consider what is taking place in the Sudan and Iran.

North Korea lost 10 percent of its population in the last 10 years to starvation. We think they have something

around 150,000 people, maybe more, in the gulag system, political prisoners. There is trafficking of individuals taking place within that country. They are counterfeiting money. They are drug running. They are gunrunning. This is a criminal enterprise that is taking place.

This bill deals with the human rights issues. It brings it front and center. The bill requires a report to be issued. It requires the Secretary of State to put forward a person of high distinction to press the human rights agenda, and we hope to get the issue of human rights in North Korea elevated to the same level or in the level with the talks in the six-party system.

The North Korean Government, when it talks about nuclear weapons development, will bluster and talk a great deal and say they need to be able to do this and they are threatening, but when you raise the issue of human rights, they go silent because there is no response to the shame of what they have done to their own people.

We are elevating this issue and making clear the United States Government position on the issue of human rights in North Korea. This is a very important bill. I am delighted we passed it this evening.

I wanted to give that brief explanation of this bill as it moves through the process, now to go back to the House and to the President.

I thank my colleague from Maine for yielding the floor and giving me this time. I yield the floor, and 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. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TALENT). Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. I ask unanimous consent that there now be a period for morning business with Senators speaking for up to 10 minutes each.

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

LOCAL LAW ENFORCEMENT ACT OF 2003

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

On August 16, 2000, in New Hope, PA, Douglas Trinkley, 21, and Larry Chroman, 36, were charged with assault, disorderly conduct and reckless endangerment of another person for allegedly attacking another man because of the man's sexual orientation.

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

HONORING OUR ARMED FORCES

PRIVATE FIRST CLASS NATHAN E. STAHL

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man who grew up in Highland, IN. PFC Nathan E. Stahl, 20 years old, died on September 21, when the vehicle he was riding in was struck by a homemade roadside bomb in Iraq. With his entire life before him, Nathan chose to risk everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

A Highland native, Nathan graduated from Highland High School in 2003, and joined the Army shortly thereafter. Nathan was assigned to the 2nd Battalion, 75th Ranger Regiment, a special operations unit based in Fort Lewis, WA. Due to the nature of Nathan's assignments, he was never able to disclose exactly where he had been or where he was going to his family and friends. Despite these hardships, loved ones say Nathan was living his dream by serving his country. The last time Nathan saw his family was 3 months ago when he visited them for 9 days during a period of authorized leave. Nathan faced his frequent deployments willingly and fought bravely before sacrificing his life for the worthy cause of freedom.

Nathan was the 35th Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. This brave young soldier leaves behind his mother, Towina; his father; his stepfather, Rodney; and his two sisters, Nichol and Abigail.

Today, I join Nathan's family, his friends and all Americans in mourning his death. While we struggle to bear our sorrow over this tremendous loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Nathan, a memory that will burn brightly during these continuing days of conflict and grief.

Nathan was known for his dedicated spirit and his love of country. According to family and friends, joining the Armed Forces was something Nathan had wanted to do since he was a young boy. His mother, Towina, told the Times of Northwest Indiana that she remembers Nathan at 13 insisting that they visit an Army recruiter. He joined the Army only 6 years later. Aside from being a soldier, Nathan enjoyed weight lifting and working on cars. Today and always, Nathan will be remembered by family members, friends and fellow Hoosiers as a true American hero, and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Nathan's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: ''We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.'' This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Nathan's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Nathan E. Stahl in the official record of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Nathan's can find comfort in the words of the prophet Isaiah who said, ''He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.''

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Nathan.

OFHEO'S INVESTIGATION OF FANNIE MAE

Mr. HAGEL. Mr. President, the Office of Federal Housing Enterprise Oversight's, OFHEO, findings-to-date report on its ''Special Examination of Fannie Mae'' is deeply troubling. It raises serious doubts about the ability of Fannie Mae's management to correct the safety and soundness problems at Fannie Mae. What is most troubling is that OFHEO had to use subpoenas in order to conduct its congressionally authorized investigation of Fannie Mae. Fannie Mae's resistance to cooperate with this investigation is unacceptable.

Based on the findings in OFHEO's report, it is clear why OFHEO's requests were repeatedly rebuffed by a stonewall of silence and why Fannie Mae's management insisted on keeping its financial operations in a black box. OFHEO's report shows among other things that Fannie Mae's top management indulged in a windfall of bonuses after it improperly manipulated the company's annual earnings. If these actions are found to be deliberately linked, then the board of Fannie Mae needs to take appropriate action and address the problem, just as the board of Freddie Mac did last year.

The boards of both GSEs have a fiduciary responsibility to their shareholders and the public to ensure that

any improper actions by management are dealt with swiftly and accordingly. The confidence in the GSEs has a direct impact on the stability of the American economy. The American people and the markets must have confidence in the operations of the congressionally chartered Fannie Mae and Freddie Mac.

We need to build upon legislation that several of my colleagues and I introduced last year. The Senate Banking Committee passed a watered down version of our legislation, but it is clear from OFHEO's findings that it is not adequate. To prevent these serious actions from occurring, the new GSE regulator must have at a minimum the same powers and resources as those of other financial regulators such as the Federal Reserve System, the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency.

House Banking Subcommittee Chairman RICHARD BAKER has scheduled a hearing next week to examine the problems at Fannie Mae. There are still too many unanswered questions and I look forward to seeing the results of the House hearing. Given the frequency of the accounting problems, pattern of manipulation and questionable management actions at both Freddie Mac and Fannie Mae, Congress can no longer look the other way.

BOYS & GIRLS CLUB OF AMERICA REAUTHORIZATION

Mr. LEAHY. Mr. President, I am pleased to note that this evening the House of Representatives has considered and passed legislation that Senator HATCH and I introduced together to reauthorize and expand the Department of Justice grant program for the Boys & Girls Clubs of America. I thank Senator HATCH for his longtime commitment to our bipartisan legislation and thank the 46 Senators from both sides of the aisle who are cosponsors of our legislation to support the Boys & Girls Clubs of America.

I pay special thanks to House Judiciary Committee Chairman SENSENBRENNER and Ranking Member CONYERS for their leadership and commitment to shepherding this bill through the House and sending it to the President's desk for enactment into law.

Too often the public sees Republicans and Democrats disagreeing. But when it comes to the Boys & Girls Clubs of America there is no doubt that we see eye to eye: This bill shows the unified support of Republicans and Democrats for the good works of Boys & Girls Clubs across the Nation.

Children are the future of our country, and we have a responsibility to make sure they are safe and secure. I know firsthand how well Boys & Girls Clubs work and what topnotch organizations they are. When I was a prosecutor in Vermont, I was convinced of the great need for Boys & Girls Clubs because we rarely encountered children from these kinds of programs. In fact, after I became a U.S. Senator, a police chief was such a big fan that he asked me to help fund a Boys & Girls Club in his district rather than helping him get a couple more police officers.

In Vermont, Boys & Girls Clubs have succeeded in preventing crime and supporting our children. The first club was established in Burlington 62 years go. Now we have 20 club sites operating throughout the State in Addison, Chittenden, Orange, Rutland, Washington, Windham and Windsor Counties. There are also four new Boys & Girls Clubs in the works in Winooski, Brattleboro, Barre and Vergennnes. These clubs will serve well over 10,000 kids statewide.

As a senior member of the Senate Appropriations Committee, I have pushed for more Federal funding for Boys & Girls Clubs. Since 1998, Congress has increased Federal support for Boys & Girls Clubs from $20 million to $80 million in this year. Due in large part to this increase in funding, there now exist 3,300 Boys & Girls Clubs in all 50 States serving more than 3.6 million young people. Because of these successes, I was both surprised and disappointed to see that the President requested a reduction of $20 million for fiscal year 2005. That request will leave thousands of children and their clubs behind and we cannot allow such a thing to happen.

In the 107th Congress, Senator HATCH and I worked together to pass the 21st Century Department of Justice Appropriations Authorization Act, which included a provision to reauthorize Justice Department grants to establish new Boys & Girls Clubs nationwide. By authorizing $80 million in DOJ grants for each of the fiscal years through 2005, we sought to establish 1,200 additional Boys & Girls Clubs nationwide. This was to bring the number of Boys & Girls Clubs to 4,000, serving no less than 5 million young people.

The bill the House will pass today builds upon this: We authorize Justice Department grants at $80 million for fiscal year 2006, $85 million for fiscal year 2007, $90 million for fiscal year 2008, $95 million for fiscal year 2009 and $100 million for fiscal year 2010 to Boys & Girls Clubs to help establish 1,500 additional Boys & Girls Clubs across the Nation with the goal of having 5,000 Boys & Girls Clubs in operation by December 31, 2010.

If we had a Boys & Girls Club in every community, prosecutors in our country would have a lot less work to do because of the values that are being instilled in children from the Boys & Girls Clubs of America. Each time I visit a club in Vermont, I am approached by parents, educators, teachers, grandparents and law enforcement officers who tell me ''Keep doing this! These clubs give our children the chance to grow up free of drugs, gangs and crime.''

You cannot argue that these are just Democratic or Republican ideas, or conservative or liberal ideas—they are simply good sense ideas. We need safe havens where our youth—the future of our country—can learn and grow up free from the influences of drugs, gangs and crime. That is why Boys & Girls Clubs are so important to our children.

I look forward to the President signing into law as soon as possible our bipartisan bill to expand Federal support for the Boys & Girls Clubs of America. Our country's strength and ultimate success lies with our children. Our greatest responsibility is to help them inhabit this century the best way possible and we can help do that by supporting the Boys & Girls Clubs of America.

AGRICULTURE DISASTER FUNDING

Mr. JOHNSON. Mr. President, I rise to speak in support of the agricultural disaster assistance package that was included in the Senate Homeland Security Appropriations bill. Many farmers and ranchers in my home State of South Dakota are suffering from their third, fourth and even fifth year of drought. As House and Senate differences are reconciled, I urge the conferees to retain the important disaster provisions that were approved on such a wide bipartisan basis in the Senate.

The drought provisions I supported, along with Senator DASCHLE, will help farmers and ranchers survive a severe drought. While I would have hoped producers wouldn't be faced with a choice for assistance for either 2003 or 2004, I understand that money is short in these times of soaring budget deficits. The Senate disaster assistance plan will provide almost $2.9 billion to farmers and ranchers across the country who are suffering from agricultural disaster. The $475 million for the Livestock Assistance Program, in addition to the $2.464 billion for the Crop Disaster Program, are critical to my State.

This drought package was introduced by my colleagues, Senator BAUCUS and Senator BURNS, and with the help of Senator DASCHLE it was added as an amendment to the fiscal year 2005 Homeland Security funding bill by a voice vote. A voice vote reflects the overwhelming bipartisan support this drought aid package has. It is frustrating that there are members of the House majority party who would reduce or even eliminate disaster aid funding for ailing farmers and ranchers, or choose to gut other crucial agricultural programs to pay for this necessary assistance.

In 2002, Senator DASCHLE and I proposed a $6 billion drought package, which was opposed by the President and some Members of the House. That package was pared down to $3 billion before its passage. The current package is very similar to the package that was approved for the 2001–2002 drought. Thanks to my colleagues on both sides of the aisle, including Senator DASCHLE's efforts to secure an opportunity to address this issue, we have a

drought package that will allow many family farmers and ranchers to stay in business through this extensive drought.

Over 23 groups expressed their support for the disaster assistance provisions in the Homeland Security funding bill for fiscal year 2005 at the beginning of this week, including the National Farmers Union, American Farm Bureau Federation, American Soybean Association, and National Association of Wheat Growers, to name a few. Such wide and strong support not only speaks to the number of producers who require assistance, but also to the merit of the provisions accepted in the Senate bill.

Drought is a real disaster and we must treat it as such. I am hopeful that my colleagues in the House realize how important this issue is for our agricultural producers, who are the economic engines of our rural communities and the backbone of our Nation. The Senate passed agricultural disaster assistance in a broad bipartisan manner, and I am hopeful that the House will show their support for America's producers by ensuring agricultural assistance remains at the levels authorized in the Senate bill.

SPINA BIFIDA AWARENESS MONTH

Mr. GRAHAM of South Carolina. Mr. President, I rise in recognition of October as Spina Bifida Awareness Month.

Spina bifida is the Nation's most common, permanently disabling birth defect. It is a neural tube defect that occurs when the central nervous system does not properly close during the early stages of pregnancy. Each year more than 4,000 pregnancies are affected and of these 1,500 babies are born with spina bifida. The most severe form of spina bifida occurs in 96 percent of children born with this disease. However, thanks to the good work that the Spina Bifida Association of America is carrying out to promote prevention and to enhance the lives of all affected by this condition, substantial progress is being made.

During Spina Bifida Awareness Month, a special effort is made to increase public awareness about spina bifida and its prevention. Simply by taking a daily dose of the B vitamin, folic acid, women of childbearing age have the power to reduce the incidence of spina bifida by up to 75 percent. Recent studies by the Centers for Disease Control and Prevention, CDC, show that 40 percent of women of childbearing age now report taking a vitamin containing folic acid every day. In addition, since the Food and Drug Administration, FDA, decision to fortify enriched grains with folic acid, CDC has documented a 26 percent decline in these birth defects. These simple changes that produce profound effects clearly demonstrate the importance of awareness.

In addition to educating the public about spina bifida, the Spina Bifida Association of America also addresses the needs of the spina bifida community. Founded in 1973, the association is the only national organization solely dedicated to advocating on behalf of the spina bifida community. Today, there are approximately 60 chapters serving over 125 communities nationwide.

I am honored to support the Spina Bifida Association and wish to commend them for all of their hard work to prevent and reduce suffering from this birth defect. I greatly appreciate their efforts to improve the lives of those 70,000 individuals living with spina bifida throughout our country. I wish the Spina Bifida Association of America the best of luck in its endeavors and urge all of my colleagues to support the association's efforts.

ADDITIONAL STATEMENTS

KARA SHERIDAN

• Mr. BUNNING. Mr. President, today I wish to honor Miss Kara Sheridan, the granddaughter of Mr. and Mrs. Carl White of Ludlowe, KY. Miss Sheridan is a most extraordinary young lady. As I speak, Miss Sheridan is representing the United States of America at the 2004 Paralympic Games. The Paralympic Games are the biggest competition in the world for athletes with a disability.

Miss Sheridan earned the honor of competing in the paralympics through hard work, perseverance and a spirit of hope. I believe that it is these three virtues which have also earned her a right to a place of honor here on the Senate floor and in the hearts of her countrymen. She has risen above the challenges posed by ostogenesis imperfecta, a rare genetic condition that she was born with, and showed the world that perseverance and hope will always be rewarded.

Kara's achievements have come in many different forms throughout the years. They include graduating from Wright State University magna cum laude last year, participating in competitive swimming events, serving on committees through the National Youth with Disabilities Council, and being awarded a scholarship to work on her master's degree from the University of Miami. But the greatest honor that Kara has earned is the accomplishment of a hope so great that it seems nothing can deter her.

Miss Sheridan has shown to America and to the world what it looks like to habitually do the right thing by hoping. Thanks to Miss Sheridan, we have already been reminded of that.•

IN REMEMBRANCE OF COLEEN JARVIS

• Mrs. BOXER. Mr. President, it is my honor to speak in memory of the late Coleen Jarvis, Vice Mayor of the City of Chico and strong advocate for women, children, and the less fortunate. She will always be remembered for her love of family, politics and the people whom she served so ably.

Coleen Jarvis dedicated her time and energy to improving her community. She fought to improve conditions for women, children, and the homeless. Coleen served as coordinate for the local rape crisis center and worked at Legal Services of Northern California, giving legal aid to those in need. ''The community of Chico lost a resourceful, energetic, dedicated and smart leader in the too-soon death of Council Member Coleen Jarvis.'' said Butte County Supervisor Jane Doaln. ''I first met Coleen when she worked on behalf of victims of rape and we continued our friendship and shared work on behalf of our loved community in many venues. Coleen had a deep commitment and worked very hard to improve our community and to remind us of our rightful duty to recognize and resolve the needs of the poor. We all were better representatives due to her efforts. She is sorely missed.''

Coleen became an important community leader through her hard work. She was elected to the Chico City Council in 1966, and served almost 8 years. As a council member, she continued to fight for her progressive values. She was passionate about the issues and people she held dear. She was known by her colleagues and friends as a giving person who possessed great integrity, drive, intellect, and wit with an energy and spirit that drove her to fight for what she believed in. Chico Mayor Maureen Kirk reflected, ''Coleen was a public servant full of integrity, passion, commitment, empathy, inclusion, tolerance, and intelligence. Her legacy is the Torres Community Homeless Shelter, the first step in her quest to find a solution for homelessness. Coleen will be sorely missed. In her 46 years, she accomplished more than 99 percent of us would accomplish in twice as many years.

Coleen Jarvis committed her life to her family and the world around her. She touched the lives of many, and her impact on her community will be long remembered.•

POLISH DAILY NEWS CELEBRATES 100 YEARS

• Ms. STABENOW. Mr. President, it is with great pride that I congratulate the Polish Daily News, Inc., which celebrates its 100th anniversary of publishing the Polish Weekly. On Saturday, October 2, 2004 the Polish community will celebrate this milestone at the American Polish Cultural Center in Troy. The Polish Weekly is a wonderful resource for the Polish-American community, providing a wealth of information on local issues as well as news from Poland.

Poles are the second largest immigrant ethnic group in Michigan. They have thrived in communities throughout our State and continue to maintain a strong connection to their rich heritage. Polish immigrants established

themselves throughout Michigan in great numbers towards the end of the 19th century. In the pursuit of a better life for themselves and their families, they settled in Polonias, or Polish neighborhoods. Many arrived in search of job opportunities in our great automotive industry. By 1904, Polish Americans were the largest and one of the most influential ethnic groups in Detroit. By 1920, they made up nearly one-fifth of Detroit's population. Polish people have enriched Michigan's culture and made metro Detroit a better place to live.

There were many institutions important to this growing immigrant population including cultural organizations, churches and the Polish American press. The Polish Daily News has played a significant role in this history, devoting itself to sustaining Polish culture and language and connecting the immigrant community to the political, cultural and social life of America.

I am delighted to have the opportunity to congratulate the Polish Daily News on reaching this significant 100-year milestone. Gratulacje!●

MS. TAMARA BRICKMAN

● Mr. SMITH. Mr. President, today I wish to recognize a special individual who has been serving the great State of Oregon for years. Tamara Brickman, a legislative coordinator at the Oregon Employment Department, is devoted to improving the lives of Oregonians by increasing the efficiency of the State government and improving the quality of workforce training. Her knowledge of State and Federal labor laws is expansive and impressive. My staff and I rely on her expertise frequently when addressing workforce legislation in Congress.

Ms. Brickman is a native Oregonian, the fourth generation of her family to live in a small town named La Grande, not far from my hometown of Pendleton in the northeast corner of the State. She is a graduate of Eastern Oregon University and a former intern of my esteemed predecessor in the Senate, Senator Mark Hatfield. According to Ms. Brickman, it was in Senator Hatfield's office that her true passion for public service blossomed.

Ms. Brickman began her career working for Oregonians as a teacher in La Grande at an alternative high school and a job training facility for individuals receiving public assistance. In January 1993, Ms. Brickman took a job in the Senate Ethics, Elections, and Campaign Finance Reform Committee of the Oregon State Legislature. In fact, Ms. Brickman served as a staffer in the Oregon Capitol when I carried my first bill on the Senate floor as an Oregon State Senator.

Before heading to law school at the University of Oregon, Ms. Brickman furthered her strong reputation in workforce training by running a federally-funded youth summer employment training program in Union County in 1994 and 1995. The training program was part of the Job Training Partnership Act, JTPA, now known as the Workforce Investment Act. Ms. Brickman taught disadvantaged youth in job skills and then found community job placements for those students in local businesses.

After passing the Oregon State bar in 1998, Ms. Brickman held a range of legislative positions for a State senator, member of the U.S. House of Representatives, and the Oregon University System Chancellor's office. For the last 3 years, Ms. Brickman has gone above and beyond the call of duty at the Oregon Employment Department to help members of our congressional delegation pass unemployment extension benefits and fiscal state relief. Ms. Brickman never fails to share important information about the state of the workforce in ways that allow me to craft timely legislation that responds to our State's needs. Her commitment to Oregon's workers and families shines through in her outstanding work.

There are thousands of dedicated State and local government employees across the country who serve their communities with the highest distinction. In my opinion, few could match the professionalism of Ms. Brickman. It is my honor and pleasure to take the time today to recognize Ms. Tamara Brickman for her dedication to Oregon.●

BALLOON FIESTA—CHARACTER COUNTS

● Mr. DOMENICI. Mr. President, I would like to discuss the good that occurs when a community joins together. This relates to a wonderful program I have been proud to promote in New Mexico for the past 10 years—Character Counts—and the support it gets from the business community.

We have had troubling and disappointing news over the past few years about corporate scandals and questionable ethics in the corporate world. So it is with great pleasure to be able to discuss a story about responsible and caring business behavior.

For the fourth straight year, Northrop Grumman has teamed with other local organizations to help at-risk youth experience the Albuquerque International Balloon Fiesta.

On October 7 through 8, eight elementary-age students in the Character Counts education program run through the Albuquerque YMCA and the Boys and Girls Clubs of Albuquerque and Rio Rancho will be treated to a field trip to the Balloon Fiesta courtesy of the Northrop Grumman and its partners—Meals on Wheels and the Albuquerque International Balloon Fiesta organization. The children and their chaperones will be treated to tethered balloon rides and generally feted throughout the day as special guests.

Now, this is more than just a simple do-good action by a major corporation. For these children it is a once-in-a-lifetime adventure linked to the Character Counts education program that builds into their lives the benefits of Respect, Responsibility, Trustworthiness, Citizenship, Fairness, and Caring. These are the six pillars of good character.

The Balloon Fiesta outing is a joint effort by these companies and organizations with the Albuquerque Character Counts Cooperative. We know these trips impact these children's lives. It is not only a reward for excelling at Character Counts, but also an entertaining way for them to broaden their horizons, meet community leaders and have a ballooning experience they might not have otherwise ever experienced.

Character Counts is an incredibly successful character education initiative. We are celebrating its 10-year history in New Mexico and these annual balloon fiesta field trips for outstanding students are a key component to helping youth become inspired by adults who are role models of the Character Counts pillars.

So I express my appreciation to the team of businesses and groups who have helped make the overall Character Counts program a success in New Mexico. In particular, I am pleased with Northrup Grumman, the YMCA, the Boys and Girls Clubs, Meals on Wheels and Albuquerque International Balloon Fiesta for broadening the horizons for children.●

CONGRATULATING MARGARET (PEG) CURTIN

● Mr. DODD. Mr. President, I wish a happy 70th birthday to an outstanding citizen and dear friend, Peg Curtin.

Peg was one of my earliest and strongest supporters when I first ran for Congress in 1974. Peg's family and mine have been close since the 1950s, when my father served in the House and then in the U.S. Senate.

For nearly three decades, Peg has compiled an outstanding record of public and community service in Connecticut. She has truly given her heart and soul to the people of our State.

From 1974 to 1977, Peg was a union organizer for the American Federation of State, County, and Municipal Employees and a member of the international staff of the AFL–CIO. In 1975, she was part of the transition team of one of our State's most beloved Governors, the late Ella T. Grasso. That year, Peg also began the first of 4 years as a member of the New London City Council, including one year as the city's mayor. Among her many accomplishments was the development and implementation of New London's first-ever affirmative action plan.

From 1979 to 1996, Peg devoted her time and energy to the State of Connecticut. For 12 years, she served as under secretary at the Office of Policy and Management's Division of Intergovernmental Relations. There, her talents enabled her to handle a demanding and diverse array of tasks,

from state labor negotiations to emergency assistance during natural disasters. Peg then went on to manage labor relations for 6 years at the University of Connecticut Health Center. She retired in 1996 after once again winning a seat on the New London City Council, an office she continues to hold today.

Peg Curtin's public service is not limited to her official duties. She has been involved in numerous charitable causes. There are far too many for me to list here on the floor, but I will just mention a few: the Connecticut Special Olympics, the American Red Cross, and the March of Dimes. It is only fitting that at tonight's celebration of Peg's birthday, the proceeds for the events will benefit two of the causes about which Peg cares so deeply—the New London Youth Organization and the New London Parks Conservancy.

We in Connecticut are lucky to have Peg Curtin working on our behalf. There is no doubt in my mind that our State is a better place today because of her efforts. I am privileged to call her my friend, and I truly admire her commitment to service, charity, and community. It is my pleasure to wish Peg a very happy birthday, and to send her my best wishes for many, many more wonderful years.●

WALTER S. SMITH, JR., CHIEF UNITED STATES DISTRICT JUDGE

● Mrs. HUTCHISON. Mr. President, today I wish to recognize Chief Judge Walter S. Smith, Jr., of the Western District of Texas. Judge Smith has dedicated his life to public service and justice, and I am pleased to commend him on his 20th anniversary on the Federal bench.

Judge Smith was born on October 25, 1940, to Dr. Walter S. Smith and Mary Elizabeth Smith. He grew up in the central Texas town of Marlin. He attended Baylor University where he received his bachelor of arts and his juris doctorate. While in law school, Judge Smith was editor of the law review and served as president of the Phi Delta Phi law fraternity.

Judge Smith began his legal career in private practice in Waco, TX. In 1979, he was appointed by Gov. Bill Clements to the 54th Judicial District Court of McLennan County. Shortly thereafter, Judge Smith was appointed U.S. Magistrate Judge for the Western District of Texas.

In 1984, Senator John Tower recommended Judge Smith for an appointment to the Federal bench. President Ronald Reagan nominated him for the position and he received a unanimous Senate confirmation on October 4, 1984. Judge Smith was sworn into office on October 6, 1984, and has served since then as the first and only resident United States District Judge in the Waco Division. Judge Smith was elevated to the position of chief Judge of the Western District of Texas on June 1, 2003, a position he continues to hold.

During his legal career, Judge Smith has remained a member of the Texas Bar Association, the Texas Bar Foundation, the McLennan County Bar Association, and the American Judicature Society.

In addition to being admitted to practice in the State of Texas, Judge Smith was also admitted to practice in Federal district courts for the Western District of Texas, the Fifth Circuit Court of Appeals, and the United States Supreme Court. Judge Smith is particularly proud of his participation in the formation of the Abner V. McCall American Inns of Court, for which he served as the first president.

During his years on the Federal bench, Judge Smith has traveled throughout the Western and other Districts of Texas. In addition to Waco, he has held court in Austin, San Antonio, Pecos, El Paso, Midland, Laredo, Corpus Christi and Forth Worth.

Judge Smith is married to the former Brenda Derting. They have two daughters, five granddaughters, and two grandsons. He is an ordained elder in the First Presbyterian Church and has been actively involved in church activities and community service.

During his career, Judge Smith has demonstrated the dedication and patience we seek on our judges. He is respected for his fairness and commitment to justice. Judge Smith has been asked to make rulings on many difficult cases throughout the years and has risen to the many challenges with poise and dignity. His knowledge of the law and experience make him a great judge. His dedication to his community and to the rule of law make him a remarkable public servant. I thank him for his 20 years on the Federal bench in the Western District of Texas.●

MEASURES REFERRED

The following bill was ordered referred as indicated:

H.R. 3428. An Act to designate a portion of the United States courthouse located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the ''Justin W. Williams United States Attorney's Building''; to the Committee on Environment and Public Works by unanimous consent.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 1084. An act to provide liability protection to nonprofit volunteer pilot organizations flying for public benefit and to the pilots and staff of such organizations.

H.R. 1787. An act to remove civil liability barriers that discourage the donation of fire equipment to volunteer fire companies.

S. 2852. A bill to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–9450. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Allethrin, Bendiocarb, Burkholderia cepacia, Fendidazon potassium, and Molinate; Tolerance Actions'' (FRL#7679-7) received on September 28, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9451. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Fenamidone; Pesticide Tolerance'' (FRL#7681-3) received on September 28, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9452. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Fludiooxonil; Pesticide Tolerances'' (FRL7682-3) received on September 28, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9453. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Methoxyfenozide; Pesticide Tolerances'' (FRL#7681-6) received on September 28, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9454. A communication from the Principal Deputy for Personnel and Readiness, Office of the Under Secretary of Defense, transmitting, pursuant to law, the approval of wearing the insignia of the grade of rear admiral; to the Committee on Armed Services.

EC–9455. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary of the Army for Financial Management, received on September 28, 2004; to the Committee on Armed Services.

EC–9456. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a designation of acting officer and nomination for the position of Assistant Secretary of the Army for Financial Management, Department of Defense, received on September 28, 2004; to the Committee on Armed Services.

EC–9457. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a discontinuation of service in acting role for the position of Assistant Secretary of the Army for Financial Management, Department of Defense, received on September 28, 2004; to the Committee on Armed Services.

EC–9458. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy and designation of acting officer for the position of Assistant Secretary of the Army for Financial Management, Department of Defense, received on September 28, 2004; to the Committee on Armed Services.

EC–9459. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a designation of acting officer for the position of Assistant Secretary of the Army for Installations and Environment, Department of Defense, received on September 28, 2004; to the Committee on Armed Services.

EC–9460. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy and designation of acting officer for the position of Assistant Secretary of the Navy for Installations and Environment, Department of Defense, received on September 28, 2004; to the Committee on Armed Services.

EC–9461. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination confirmed for the position of Under Secretary of Defense, Comptroller, Department of Defense, received on September 28, 2004; to the Committee on Armed Services.

EC–9462. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a discontinuation of service in acting role for the position of Under Secretary of Defense, Comptroller, Department of Defense, received on September 28, 2004; to the Committee on Armed Services.

EC–9463. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of the designation of acting officer for the position of Assistant Secretary of Defense for Networks and Information Integration, Department of Defense, received on September 28, 2004; to the Committee on Armed Services.

EC–9464. A communication from the Chairman, Defense Nuclear Facilities Safety Board, transmitting, pursuant to law, the Annual Report on Commercial Activities at the Board; to the Committee on Armed Services.

EC–9465. A communication from the Deputy Chief of Naval Operations for Manpower and Personnel, Department of the Navy, transmitting, pursuant to law, the notification of a decision to implement performance by the Most Efficient Organization (MEO) for Research, Development, Test, and Evaluation Support Services in Philadelphia, PA; to the Committee on Armed Services.

EC–9466. A communication from the Deputy Chief of Naval Operations for Manpower and Personnel, Department of the Navy, transmitting, pursuant to law, the notification of a decision to implement performance by the Most Efficient Organization (MEO) for Retail Supply Southwest in San Diego, CA; to the Committee on Armed Services.

EC–9467. A communication from the Army Federal Register Liaison Officer, Department of the Army, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Publication of Rules Affecting the Public'' (RIN0702–AA40) received on September 28, 2004; to the Committee on Armed Services.

EC–9468. A communication from the Deputy Secretary of the Treasury, transmitting, pursuant to law, a report on the national emergency declared in Executive Order 13224 of September 23, 2001 with respect to persons who commit, threaten to commit, or support terrorism; to the Committee on Banking, Housing, and Urban Affairs.

EC–9469. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determination; 69 FR 50324'' (44 CFR 67) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9470. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determination; 69 FR 50320'' (44 CFR 65) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9471. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determination; 69 FR 50320'' (44 CFR 65) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9472. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determination; 69 FR 50331'' (44 CFR 67) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9473. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determination; 69 FR 50332'' (44 CFR 67) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9474. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determination; 69 FR 50325'' (44 CFR 67) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9475. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determination; 69 FR 50325'' (44 CFR 65) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9476. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility; 69 FR 42584'' (44 CFR 64) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9477. A communication from the Acting General Counsel, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determination; 69 FR 50318'' (44 CFR 65) received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9478. A communication from the Assistant to the Board of Governors of the Federal Reserve, transmitting, pursuant to law, the report of a rule entitled ''Rules of Practice for Hearings'' received on September 28, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9479. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation to ''allow the guarantee fee to be included in the single-family housing guaranteed loan''; to the Committee on Banking, Housing, and Urban Affairs.

EC–9480. A communication from the Chairman, Federal Communications Commission, transmitting, pursuant to law, the Commission's Auctions Expenditure Report for fiscal year 2003; to the Committee on Commerce, Science, and Transportation.

EC–9481. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; Western Pacific Bottomfish and Seamount Groundfish Fishery; Fishing Moratorium'' () received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9482. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Allow Processors to Use Offal from Salmon and Halibut Intended for Prohibited Species Donation Program'' (RIN0648–AR64) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9483. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Notice of Closure of the Spring Commercial Red Snapper Component, Reef Fish Fishery of the Gulf of Mexico'' received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9484. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #8—Adjustment of the Commercial Salmon Fishery from Humbug Mountain, Oregon to the Oregon-California Border'' received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9485. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #6—Adjustments of the Commercial Fishery from the U.S.-Canada Border to Cape Falcon, Oregon'' received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9486. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #7—Adjustments of the Recreational Fishery from the Queets River, Washington to Cape Falcon, Oregon'' received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9487. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Remove a Harvest Restriction for the Harvest Limit Area Atka Mackerel Fishery in the Aleutian Islands Subarea'' (RIN0648–AS10) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9488. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands; Closure and Openings'' received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9489. A communication from the Attorney Advisor, Department of Transportation, transmitting, pursuant to law, the report of a nomination for the position of Advisory Board Member, Saint Lawrence Seaway Development Corporation, Department of Transportation, received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9490. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled

''Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; Adjustment of Recreational Retention Limits'' received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9491. A communication from the Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Atlantic Shark Management Measures'' (RIN0648–AS07) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 437. A bill to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River Indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes (Rept. No. 108–360).

S. 511. A bill to provide permanent funding for the Payment In Lieu of Taxes program, and for other purposes (Rept. No. 108–361).

S. 1614. A bill to designate a portion of White Salmon River as a component of the National Wild and Scenic Rivers System (Rept. No. 108–362).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 1678. A bill to provide for the establishment of the Uintah Research and Curatorial Center for Dinosaur National Monument in the States of Colorado and Utah, and for other purposes (Rept. No. 108–363).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1852. A bill to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin (Rept. No. 108–364).

S. 1876. A bill to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project (Rept. No. 108–365).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 2142. A bill to authorize appropriations for the New Jersey Coastal Heritage Trail Route, and for other purposes (Rept . No. 108–366).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment:

S. 2181. A bill to adjust the boundary of Rocky Mountain National Park in the State of Colorado (Rept. No. 108–367).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 2334. A bill to designate certain National Forest System land in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System (Rept. No. 108–368).

By Mr. DODD, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2374. A bill to provide for the conveyance of certain land to the United States and to revise the boundary of Chickasaw National Recreation Area, Oklahoma, and for other purposes (Rept. No. 108–369).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2408. A bill to adjust the boundaries of the Helena, Lolo, and Beaverhead-Deerlodge National Forests in the State of Montana (Rept. No. 108–370).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment and an amendment to the title:

S. 2432. A bill to expand the boundaries of Wilson's Creek Battlefield National Park, and for other purposes (Rept. No. 108–371).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 2567. A bill to adjust the boundary of Redwood National Park in the State of California (Rept. No. 108–372).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2622. A bill to provide for the exchange of certain Federal land in the Santa Fe National Forest and certain non-Federal land in the Pecos National Historical Park in the State of New Mexico (Rept. No. 108–373).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 1113. A bill to authorize an exchange of land at Fort Frederica National Monument, and for other purposes (Rept. No. 108–374).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 1446. A bill to support the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, and for other purposes (Rept. No. 108–375).

H.R. 1964. To assist the States of Connecticut, New Jersey, New York, and Pennsylvania in conserving priority lands and natural resources in the Highlands region, and for other purposes (Rept. No. 108–376).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2010. A bill to protect the voting rights of members of the Armed Services in elections for the Delegate representing American Samoa in the United States House of Representatives, and for other purposes (Rept. No. 108–377).

H.R. 3706. A bill to adjust the boundary of the John Muir National Historic Site, and for other purposes (Rept. No. 108–378).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 4516. A bill to require the Secretary of Energy to carry out a program of research and development to advance high-end computing (Rept. No. 108–379).

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1529. A bill to amend the Indian Gaming Regulatory Act to include provisions relating to the payment and administration of gaming fees, and for other purposes (Rept. No. 108–380).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2603. A bill to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions (Rept. No. 108–381).

By Mr. GRASSLEY, from the Committee on Finance, with an amendment in the nature of a substitute and an amendment to the title:

S. 333. A bill to promote elder justice, and for other purposes.

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. DASCHLE (for himself and Mr. JOHNSON):

S. 2851. A bill to amend the Farm Credit Act of 1971 to establish certain conditions under which a Farm Credit System institution can terminate its status as a System institution; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SANTORUM (for himself, Mr. REID, Mr. ALLEN, Mr. BINGAMAN, Mr. BUNNING, Mr. BURNS, Mr. CAMPBELL, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. DEWINE, Mr. DODD, Mr. DURBIN, Mr. ENZI, Mr. GRASSLEY, Mr. HAGEL, Mrs. HUTCHISON, Mr. KENNEDY, Mr. KERRY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LUGAR, Mr. MILLER, Ms. MURKOWSKI, Mr. REED, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Ms. STABENOW, Mr. TALENT, Mr. WARNER, Mr. STEVENS, and Mr. BENNETT):

S. 2852. A bill to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes; read the first time.

By Ms. SNOWE:

S. 2853. A bill to require a report on the methodologies utilized for National Intelligence Estimates; to the Select Committee on Intelligence.

By Ms. SNOWE:

S. 2854. A bill to facilitate alternative analyses of intelligence by the intelligence community; to the Select Committee on Intelligence.

By Mr. INHOFE:

S. 2855. A bill to amend chapter 25 of title 18, United States Code, to create a general provision similar to provisions found in chapter 47 of such title, to provide for criminal penalties for the act of forging Federal documents; to the Committee on the Judiciary.

By Mr. COCHRAN (for himself and Mr. HARKIN):

S. 2856. A bill to limit the transfer of certain Commodity Credit Coporation funds between conservation programs for technical assistance for the programs; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. REID:

S. Res. 436. A resolution designating the second Sunday in the month of December 2004 as ''National Children's Memorial Day''; to the Committee on the Judiciary.

By Mr. LUGAR (for himself and Mr. BAYH):

S. Res. 437. A resolution celebrating the life of Joseph Irwin Miller of Columbus, Indiana; to the Committee on the Judiciary.

By Mr. BIDEN (for himself, Mr. HATCH, Mr. KOHL, Mrs. BOXER, Mrs. CLINTON, Ms. STABENOW, Mr. DAYTON, Mr. CORZINE, Mr. JOHNSON, Mr. LAUTENBERG, Mr. CARPER, Mrs. MURRAY, Mr. REID, Mr. WYDEN, Mr. LEAHY, Mr. KYL, Mr. CORNYN, Mr. DASCHLE, Ms. MURKOWSKI, Mr. FEINGOLD, Mr. DURBIN, Ms. CANTWELL, and Mrs. FEINSTEIN):

S. Res. 438. A resolution supporting the goals and ideals of National Domestic Violence Awareness Month and expressing the sense of the Senate that Congress should raise awareness of domestic violence in the United States and its devastating effects on families; considered and agreed to.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. Res. 439. A resolution recognizing the contributions of Wisconsin Native Americans to the opening of the National Museum of the American Indian; considered and agreed to.

By Mr. HATCH:

S. Res. 440. A resolution designating Thursday, November 18, 2004, as ''Feed America Thursday''; considered and agreed to.

ADDITIONAL COSPONSORS

S. 847

At the request of Mr. SMITH, the name of the Senator from Wisconsin (Mr. FEINGOLD) 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 names of the Senator from Oregon (Mr. WYDEN), the Senator from Kansas (Mr. ROBERTS), the Senator from Kansas (Mr. BROWNBACK), the Senator from Vermont (Mr. JEFFORDS), the Senator from Idaho (Mr. CRAPO) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors 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. 1556

At the request of Mr. SMITH, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1556, a bill to amend the Internal Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans.

S. 2163

At the request of Mr. DURBIN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2163, a bill to establish a national health program administered by the Office of Personnel Management to offer health benefits plans to individuals who are not Federal employees, and for other purposes.

S. 2489

At the request of Mr. INOUYE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 2489, a bill to establish a program within the National Oceanic and Atmospheric Administration to integrate Federal coastal and ocean mapping activities.

S. 2565

At the request of Mr. CRAPO, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 2565, a bill to amend the Agriculture Adjustment Act to convert the dairy forward pricing program into a permanent program of the Department of Agriculture.

S. 2568

At the request of Mr. BIDEN, the names of the Senator from Alabama (Mr. SESSIONS), the Senator from New Jersey (Mr. CORZINE), the Senator from Maryland (Ms. MIKULSKI), the Senator from Vermont (Mr. JEFFORDS), the Senator from California (Mrs. FEINSTEIN) and the Senator from New Mexico (Mr. BINGAMAN) 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. 2618

At the request of Mr. BAUCUS, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2618, a bill to amend title XIX of the Social Security Act to extend medicare cost-sharing for the medicare part B premium for qualifying individuals through September 2005.

S. 2672

At the request of Mr. WYDEN, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 2672, a bill to establish an Independent National Security Classification Board in the executive branch, and for other purposes.

S. 2707

At the request of Mr. LOTT, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 2707, a bill to amend title XVIII of the Social Security Act to recognize the services of respiratory therapists under the plan of care for home health services.

S. 2713

At the request of Mr. DOMENICI, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2713, a bill to amend the Public Health Service Act to revise the amount of minimum allotments under the Projects for Assistance in Transition from Homelessness program.

S. 2759

At the request of Mr. ROCKEFELLER, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor 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. 2807

At the request of Mr. CRAPO, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 2807, a bill to amend the Internal Revenue Code of 1986 to exempt containers used primarily in potato farming from the excise tax on heavy trucks and trailers.

S. 2845

At the request of Ms. COLLINS, the names of the Senator from Ohio (Mr. VOINOVICH) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

S. CON. RES. 8

At the request of Ms. COLLINS, the names of the Senator from North Carolina (Mrs. DOLE) and the Senator from Kentucky (Mr. BUNNING) 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''.

AMENDMENT NO. 3704

At the request of Mr. WYDEN, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of amendment No. 3704 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. 3705

At the request of Ms. COLLINS, the names of the Senator from Minnesota (Mr. COLEMAN), the Senator from Ohio (Mr. VOINOVICH), the Senator from Hawaii (Mr. AKAKA), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Nebraska (Mr. NELSON) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of amendment No. 3705 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.

At the request of Mr. LEAHY, his name was added as a cosponsor of amendment No. 3705 proposed to S. 2845, supra.

AMENDMENT NO. 3706

At the request of Mr. SPECTER, the names of the Senator from Indiana (Mr. BAYH) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of amendment No. 3706 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. DASCHLE (for himself and Mr. JOHNSON):

S. 2851. A bill to amend the Farm Credit Act of 1971 to establish certain conditions under which a Farm Credit System institution can terminate its status as a System institution; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DASCHLE. Mr. President, 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. 2851

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

SECTION 1. TERMINATION OF FARM CREDIT SYSTEM STATUS.

Section 7.10 of the Farm Credit Act of 1971 (12 U.S.C. 2279d) is amended by adding at the end the following:

''(c) CONDITIONS FOR CERTAIN TERMINATION.—Notwithstanding subsections (a) and (b), if the Farm Credit Administration Board receives an official notification that a Farm Credit System institution seeks to terminate its status as a System institution, the Farm Credit Administration—

''(1) shall hold not less than 1 public meeting or hearing in each of the States served, as of the date of receipt of the notification, by the institution; and

''(2) shall not approve or disapprove the termination of the institution as a System institution under subsection (a)(2) until on or after the date that is 180 days after the date of receipt of the notification.''.

Mr. JOHNSON. Mr. President, I rise today in support of a bill I am cosponsoring with Senator DASCHLE. This important piece of legislation would affect the way the Farm Credit Administration, FCA, handles any possible sale of one of its member institutions. This bill would require the FCA to hold hearings in all the States affected by the sale, which is what my good colleague from South Dakota and I have been advocating since the time this proposed termination was announced. Additionally, the bill would prohibit the FCA from approving the termination plan no earlier than 6 months after the initial proposal is submitted. I am pleased to cosponsor this legislation with Senator DASCHLE as it will give the Farm Credit System, FCS, and affected parties adequate time to discern long-term implications and consequences of the possible sale of an FCS institution.

This bill is very timely, in that Rabobank, a Dutch bank, has made a bid to purchase Farm Credit Services of America, a Farm Credit System member bank. This transaction is moving ahead at a rapid pace without any hearings in the affected region of the country which happens to include my home State of South Dakota. One of my greatest concerns about the operation of the FCS is for farmers and ranchers to have the ability to ask questions about the transaction and decide if it is in their best interest to allow the transaction to occur. We must ensure that producers will always be able to have access to affordable credit, and that they are well-informed before they are obligated to vote on the potential termination of the Farm Credit Services of America, FCSA.

The Farm Credit System has been in operation in the United States for 88 years and has been serving farmers well. The system was formed to allow farmers and ranchers easy access to credit for purchases that are fundamental to their day-to-day operations. Given the myriad of challenges producers face in our agricultural communities across America, I am greatly concerned that this acquisition would place yet another burden on our ranchers and farmers. I am fully committed to ensuring our producers have adequate access to reliable credit, and support this legislation as a means to achieve that goal. I am hopeful that my Senate colleagues will support this commonsense and imperative legislation.

By Mr. SANTORUM (for himself, Mr. REID, Mr. ALLEN, Mr. BINGAMAN, Mr. BUNNING, Mr. BURNS, Mr. CAMPBELL, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. DEWINE, Mr. DODD, Mr. DURBIN, Mr. ENZI, Mr. GRASSLEY, Mr. HAGEL, Mrs. HUTCHISON, Mr. KENNEDY, Mr. KERRY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LUGAR, Mr. MILLER, Ms. MURKOWSKI, Mr. REED, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Ms. STABENOW, Mr. TALENT, Mr. WARNER, Mr. STEVENS, and Mr. BENNETT):

S. 2852. A bill to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes; read the first time.

Mr. SANTORUM. Mr. President, I rise today to introduce the Special Olympics Sports Empowerment Act. I am very pleased that Senator REID has joined me in introducing this legislation to authorize $15 million for Special Olympics programs. We are also joined by 31 other cosponsors, both Republican and Democrat, conservative, moderate, and liberal, demonstrating the wide range of support for this legislation.

According to the World Health Organization, there are 170 million individuals with mental retardation worldwide. Up to 7 million of these individuals live in the United States. Unfortunately, these individuals tend to have much shorter lives—by 10–20 years—in most countries. In developed countries, there is still significant preventable morbidity, pain and suffering. This population is also generally underemployed, stigmatized and many experience violence or abuse at some point in their lives.

Thirty-six years ago, Mrs. Eunice Kennedy Shriver, who had already been working for years with individuals with intellectual disabilities, founded Special Olympics. In July 1968, Special Olympics held its first games in Chicago, hosting 1,000 athletes. Over the years, Special Olympics has continued to serve many individuals with intellectual disabilities around the world by providing year-round sports training and competitive opportunities. Special Olympics now serves over 1.5 million individuals with intellectual disabilities, their families and communities.

Special Olympics recognizes the value and dignity of every life. As well as providing children and adults with intellectual disabilities with the opportunity of athletic training and competition, these programs provide participants with health screenings using the donated time of voluntary health care providers. In addition, they help to improve awareness throughout the world of the abilities and unique contributions that individuals with intellectual disabilities can make, thus helping to dispel negative stereotypes.

The Special Olympics Sports Empowerment Act will aid an organization that is already hard at work in assisting and providing affirmation to these individuals and their families. It does this by, for the first time, authorizing funding for Special Olympics over 5 years. It authorizes $15 million in fiscal year 2005, and such sums as necessary each year through fiscal year 2009. This bill recognizes the success Special Olympics has had, will ensure that their funding is more stable, and will help Special Olympics to continue to increase the number of athletes and families they serve each year.

I am pleased to be sponsoring this legislation and to have the support of so many of my colleagues. I am hopeful that the Senate and House will act to pass this legislation during the 108th Congress.

By Mr. INHOFE:

S. 2855. A bill to amend chapter 25 of title 18, United States Code, to create a general provision similar to provisions found in chapter 47 of such title, to provide for criminal penalties for the act of forging Federal documents; to the Committee on the Judiciary.

Mr. INHOFE. Mr. President, the recent CBS incident involving the record of President Bush's service in the Texas Air National Guard sheds light on the need for a Federal statute generally criminalizing the forgery of Federal Government documents. I believe that when it comes to crimes involving the fabrication of Federal documents or writings, the Federal Government has an obligation to step in and show the offenders there are serious consequences.

Many experts initially doubted the authenticity of the memos in question, which negatively and falsely characterized President Bush's time in the Texas Air National Guard. We now believe these memos were created on a modern word processing computer rather than the 1970-era typewriter, as alleged in the original CBS story.

LTC Jerry Killian was George Bush's commanding officer during his service in Vietnam. Unfortunately, Lieutenant Colonel Killian died in 1984 and therefore he could not defend his records that he so accurately discussed at that time about the quality of service of our President.

I would say this, though: That Colonel Killian's secretary Marion Knox typed all of his correspondence between the years 1956 and 1979. Referring to the memos in question, she said, ''I know I didn't type 'em'.''

She was very clear. She didn't qualify it. She said, ''I know I didn't type 'em'.''

It is clear that the documents CBS shared with American voters were more than suspect. After the fact—since CBS cannot verify its reporting—I am pleased to see that CBS has belatedly retracted its story.

We also now know that the Kerry campaign was aware CBS was planning to air the story 4 or 5 days before it was aired, while the White House did not know about the airing of this story until the eve of the story breaking. That shows an obvious bias. I don't think anyone can deny it.

President Bush stands by his honorable service in the Air National Guard. He should not have to worry about the threat of nefarious and petty efforts to defame his character.

I appreciated Dan Rather's words: ''I want to say personally and directly I am sorry,'' but saying I am sorry just doesn't cut it.

Under much pressure, CBS has appointed an independent panel to investigate its reporting of the President's service in the Texas Air National Guard. I understand this panel is to be headed by former Attorney General Dick Thornburg and former Associated Press chief executive and former Pennsylvania Governor Lou Boccardi.

I agree with many of my colleagues from the House of Representatives who were dismayed that CBS, a network that should be responsible for reporting objective news, involved itself in a campaign that misled the public and slandered the President. Therefore, I am proposing legislation to criminalize this type of action in general. Most people believe there is already a statute on the books that would have this criminalized.

After learning of the CBS scandal, I was curious about the penalty. I figured there had to be one for the forgery of Federal documents. In seeking the answer to this question, I called the Department of Justice. Their congressional relations office promptly responded: ''It depends.''

I ask unanimous consent that a copy of that communication 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, the Justice Department stated that similar cases were often charged under the general sections of the fraud and false statements chapter of the United States Criminal Code. Those sections have proven quite useful to the prosecutors at the Department of Justice.

I learned of a loophole in the existing law regarding forgery and false statements. I learned there are no general sections of the United States Criminal Code for forgery in counterfeiting as there are in the other cases. Officials from the Department of Justice noted the absence of a general stand-alone statute that criminalizes the actions of those who would forge documents of the Federal Government, regardless of the end they seek to achieve or what these documents are. Currently, the prosecution of such actions depends completely on the context and how forged documents were the means to an end.

Chapter 25 of title 18 of the United States Code addresses various offenses in counterfeiting and forgery. The current 45 sections of the counterfeiting and forgery chapter essentially fall into four broad categories.

This is very important, because if forgery takes place and they do not fall into one of these four categories, then there is no penalty involved: No. 1, financial obligations. Obviously, this is not such a case; No. 2, military and naval discharge certificates; No. 3, transportation matters and motor vehicle documents; and No. 4, the seals of agencies, including courts, departments, and other agencies.

What we are saying is, if it doesn't fall into forgery, it doesn't fall into one of these four categories; there is no general statute that would offer a penalty.

The legislative history of the 45 sections of the counterfeiting and forgery chapter indicate that the sections were enacted piecemeal without a unifying, overarching section. If forgery takes place but does not fall into one of these sections, there is no penalty.

Chapter 47 of title 18 of the United States Code regarding the fraud and false statements chapter also contains disparate sections enacted piecemeal.

In contrast, however, the fraud and false statements chapter does have an overarching section, section 1001, that unifies its disparate, piecemeal parts as contrasted to the forgery statute.

In light of the recent situation involving President Bush's record, these broad, disparate sections need to include, in general, the fabrication of Federal writings or memos.

In speaking with officials from the Department of Justice, I have also become aware of concerns over whether the existing statute regarding fraud, 18 USCS 1001, can be used in this CBS incident. Chapter 47 on fraud and false statements specifically condemns false statements but only those with the intent to defraud the Federal Government. Again, this is talking about fraud and false statements, not the forgery statute.

There are questions as to whether the ''intent to defraud the United States or any agency thereof'' is applicable or whether it could successfully be argued that instead it was the voters of the United States who were initially defrauded, distinguishing in certain fashion the ''United States'' from voters or the like.

These concerns validate the need to criminalize the specific act of forging Federal documents. Technically, in the CBS incident, it could be argued that the forged Federal document did not monetarily or otherwise tangibly take away from the Federal Government. I would argue that it did harm the Federal Government by infringing on the Federal Government's copyright on its work. It certainly did affect millions of Americans by giving them a false and misleading impression about a Presidential candidate. But it needs to be clarified.

As placed under chapter 25 of title 18, my bill would criminalize general forgery of Federal Government documents, including those that characterize or purport to characterize official Federal activity, service, contract, obligation, duty, or property.

If someone attempts to forge in the name of an official of the Federal Government a document or memo that addresses an official Government duty or act, that person should be held accountable. There needs to be a Federal law prohibiting such forgery generally so prosecution of the same does not fall through the cracks.

Currently, there is no catchall section to address all forged Federal writings, such as a vote from one official to another about a Federal service.

I serve on the Senate Armed Services Committee and I honor those who serve in the National Guard. Not only has the CBS incident resulted in slander to the honorable National Guard service of President Bush, it also highlights the risk of the records of other military service members and, moreover, all Federal servants governmentwide alike.

A civil servant at the General Services Administration, which the Environment and Public Works Committee which I chair has to oversee, is equally deserving of being protected from a forgery of his or her work records. Right now there is no section in the forgery chapter of the United States Code that specifically addresses protection for General Services Administration personnel. This omission is a problem we must correct.

My legislation also includes language to condemn those who, knowingly or negligently failing to know, transmit or present any such forged Federal writing or record which characterizes official Federal activities or service. This general criminalization of publishing forged documents follows existing provisions of the forgery code. If a major news network broadcasts a story based on alleged Federal documents, they must take the responsibility to verify those records.

While CBS may not have taken part in the creation of the memo in question, and indeed I think I join all of us Americans in yearning to know who did forge these memos, the network still touted them as verified and broadcast the forged memos as truthful to millions of American voters. I look forward to a full criminal investigation of who did forge the documents.

I draw an analogy in distinguishing between murder and negligent homicide. Those are crimes. Murder is intentional and negligent homicide is

not, but in both crimes someone has been killed. While CBS may not have had the intention to deceive its audience, the false information was communicated when it was negligently not verified and the damage was done nevertheless.

If it were not for the work of many astute people working through the Internet and otherwise, this travesty would not have been on its way to being exposed and fully prosecuted criminally. CBS and its surrogates pointedly disparaged the people who told the truth as mere second-class journalists of the Internet and table television and talk radio persuasions. Rather, it is CBS which has proven itself to be even less than second-class journalism.

I note that numerous pundits have been discussing recently the very vitality of the networks is faltering with the explosion of other media. Pundits have cited CBS's additional poor judgment in failing to cover the political conventions as well as other media outlets did. CBS owes a separate apology to those truth tellers whom it slandered and who have shown better judgment than CBS.

It can be difficult to communicate information without also conveying one's personal conviction on a matter. However, in a free society such as ours, the news media has a responsibility to work to be fair and balanced and to tell both sides of the story without letting a journalistic spin cloud their judgment.

Television, print, and the Internet are a powerful media. They shape our lives. They provide some part of the education of our children, whether we like it or not. The time has come for the media to take responsibility for its actions rather than manipulate public opinion to lobby the causes and politicians the media support. Facts, not conclusions or erroneous records, should be reported. Elections are a powerful example of why journalists must hold themselves to the highest of standards. People can then synthesize information for themselves.

In conclusion, I argue that the media has a grave responsibility to ensure that what it reports is a true and accurate representation of the facts. It could be argued that if CBS either forged the documents or knowingly represented forged documents as being true, there is no penalty under the law. We need to criminalize and establish the consequences for forging Federal documents. I urge my colleagues to stand with me. I cannot imagine anyone not supporting such a piece of legislation.

EXHIBIT I

There's no stand-alone federal offense for forging government documents.

The criminal penalties for the forgery would depend upon the circumstances, the context, basically the underlying facts of the matter—what type of document, for what purpose, what was done with it, what was intended—a lot of various factors that would influence the decision about how it would be charged and hence what the penalties would be.

There is no stand-alone forgery of government documents offense. It depends on the context of the matter.

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. 2855

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

SECTION 1. FORGERY OF FEDERAL DOCUMENTS.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding at the end the following:

"§ 515. Federal records, documents, and writings, generally

''Any person who—

''(1) falsely makes, alters, forges, or counterfeits any Federal record, Federal document, Federal writing, or record, document, or writing characterizing, or purporting to characterize, official Federal activity, service, contract, obligation, duty, property, or chose;

''(2) utters or publishes as true, or possesses with intent to utter or publish as true, any record, document, or writing described in paragraph (1), knowing, or negligently failing to know, that such record, document, or writing has not been verified, has been inconclusively verified, is unable to be verified, or is false, altered, forged, or counterfeited;

''(3) transmits to, or presents at any office, or to any officer, of the United States, any record, document, or writing described in paragraph (1), knowing, or negligently failing to know, that such record, document, or writing has not been verified, has been inconclusively verified, is unable to be verified, or is false, altered, forged, or counterfeited;

''(4) attempts, or conspires to commit, any of the acts described in paragraphs (1) through (3); or

''(5) while outside of the United States, engages in any of the acts described in paragraphs (1) through (3), shall be fined under this title, imprisoned not more than 10 years, or both.''.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 25 of title 18, United States Code, is amended by inserting after the item relating to section 514 the following:

''515. Federal records, documents, and writings, generally.''.

By Mr. COCHRAN (for himself and Mr. HARKIN):

S. 2856. A bill to limit the transfer of certain Commodity Credit Corporation funds between conservation programs for technical assistance for the programs; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. COCHRAN. Mr. President, 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. 2856

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

SECTION 1. TECHNICAL ASSISTANCE.

(a) IN GENERAL.—Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by striking subsection (b) and inserting the following:

''(b) TECHNICAL ASSISTANCE.—Effective for fiscal year 2005 and each subsequent fiscal year, Commodity Credit Corporation funds made available for each of the programs specified in paragraphs (1) through (7) of subsection (a)—

''(1) shall be available for the provision of technical assistance for the programs for which funds are made available; and

''(2) shall not be available for the provision of technical assistance for conservation programs specified in subsection (a) other than the program for which the funds were made available.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2004.

Mr. HARKIN. Mr. President, I am very pleased to join my colleague and Chairman of the Committee on Agriculture, Nutrition and Forestry, Mr. COCHRAN in introducing this piece of legislation to correct a continuing problem at the U.S. Department of Agriculture with funding for technical assistance for agricultural producers and landowners participating in agricultural conservation programs.

The 2002 farm bill contains a historic increase in funding for conservation programs, including for the Environmental Quality Incentives Program (EQIP), the Farm and Ranch Lands Protection Program (FRPP), the Wildlife Habitat Incentives Program (WHIP), the Wetlands Reserve Program (WRP), the Conservation Reserve Program (CRP), the Grassland Reserve Program (GRP) and the Conservation Security Program (CSP). These programs provide our nation's producers and landowners the financial and technical means to protect and enhance natural resources, including water, air, soil and wildlife habitat.

To realize the environmental benefits made possible by this large new investment in conservation, it is essential that farmers, ranchers and landowners receive professional technical assistance to help them plan, design and carry out effective and workable conservation practices in their specific operations. This technical assistance is provided by employees of USDA's Natural Resources Conservation Service and, under the 2002 farm bill, private sector providers.

Because technical assistance is so crucial to the effectiveness of conservation programs, the 2002 farm bill included sufficient money for technical assistance as an integral part of the mandatory funding provided for each of the conservation programs. The legislation requires USDA to use mandatory funds to carry out the conservation programs, ''including the provision of technical assistance.''

By providing funding in this manner, Congress acted to remedy the substantial and continuing shortfalls in technical assistance for mandatory conservation programs under the 1996 farm bill—which on several occasions necessitated limited stop-gap funding in appropriations measures. These shortfalls resulted from application of a limitation on transfers from the Commodity

Credit Corporation (CCC), often referred to as ''the section 11 cap''. The only conservation program not affected by this limitation was EQIP. That is because the statutory language creating and funding EQIP specifically identified technical assistance as an integral function of the program, thereby creating a funding stream through the program funds directly and outside the limitation on Section 11 transfers from CCC.

In drafting the 2002 farm bill, Congress was thus fully aware of the recurrent shortages of technical assistance funds which plagued the 1996 farm bill's mandatory conservation programs and the manner in which EQIP technical assistance had been exempted from the limitation on CCC transfers. The wording and structure of the 2002 bill closely track the 1996 bill's EQIP language to specify clearly that technical assistance is an integral part of the bill's mandatory funding for each of the conservation programs, and hence not subject to the limitation on CCC transfers. Further, the 2002 farm bill's statement of managers unmistakably indicates that technical assistance is an integral part of mandatory funding, following the model used for EQIP in the 1996 bill.

We believed that the language in the 2002 farm bill solved the problem by fully funding technical assistance through the mandatory program funds without the limitation on transfers from the CCC. Nevertheless, the administration, through the Office of Management and Budget and the Department of Justice, construed the bill so that all conservation technical assistance fell under the Section 11 cap—even for EQIP. The U.S. General Accounting Office disagreed with the Administration's position and concluded that under the farm bill technical assistance is a part of the mandatory funds for each conservation program and not within the limitation on CCC transfers.

The limitation on technical assistance under the administration's interpretation meant that much of the investment we made in the farm bill conservation programs would go unused for lack of technical assistance to plan for and carry out the conservation practices on the ground. To move beyond the impasse created by the misinterpretation of the farm bill by the administration, Congress added language to the 2003 Consolidated Appropriations Act specifying that certain transfers of funding from the CCC for technical assistance are not subject to the Section 11 cap if the funds come directly from the funds provided for several of the conservation programs.

This was only a partial solution. To limit the budget cost, technical assistance funds for all conservation programs (except CSP) are transferred from the funds provided for a subset of programs, namely EQIP, WHIP, GRP and FRPP, that have annual funding limits in the farm bill. As a result, technical assistance funds for WRP and CRP have been taken from the annual mandatory funds provided for the four dollar-limited programs. This has resulted in a diversion of over $200 million to pay for technical assistance for CRP and WRP that would otherwise have gone directly to agricultural producers and landowners through EQIP, WHIP, CRP and FRPP.

The legislation we are introducing today will take the next step and permanently fix the technical assistance funding problem. It will cure the shortage of technical assistance funding so funds will no longer be taken from EQIP, WHIP, GRP or FRPP to pay for technical assistance for CRP and WRP. And, it will finally restore the original intent of the 2002 farm bill to have technical assistance funding come out of the CCC funding provided for each conservation program.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 436—DESIGNATING THE SECOND SUNDAY IN THE MONTH OF DECEMBER 2004 AS ''NATIONAL CHILDREN'S MEMORIAL DAY''

Mr. REID submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 436

Whereas approximately 80,000 infants, children, teenagers, and young adults of families living throughout the United States die each year from myriad causes;

Whereas the death of an infant, child, teenager, or young adult of a family is considered to be one of the greatest tragedies that a parent or family will ever endure during a lifetime;

Whereas a supportive environment, empathy, and understanding are considered critical factors in the healing process of a family that is coping with and recovering from the loss of a loved one; and

Whereas April is National Child Abuse Prevention month: Now, therefore, be it

Resolved,

SECTION 1. DESIGNATION OF NATIONAL CHILDREN'S MEMORIAL DAY.

The Senate—

(1) designates the second Sunday in the month of December 2004 as ''National Children's Memorial Day''; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe ''National Children's Memorial Day'' with appropriate ceremonies and activities in remembrance of the many infants, children, teenagers, and young adults of families in the United States who have died.

Mr. REID. Mr. President, I rise today to submit a resolution that would designate the second Sunday in December as ''National Children's Memorial Day.''

The resolution would set aside this day to remember all the children who die in the United States each year. While I realize the families of these children deal with the grief of their loss every day, I would like to commemorate the lives of these children with a special day as well.

The death of a child is a shattering experience for any family. I have had constituents share their heart-wrenching stories with me about the death of their son or daughter. I have heard heroic stories of kids battling cancer or diabetes, and tragic stories of car accidents and drownings.

Each of these families has had their own experience, but they must all continue with their lives and live with the incredible pain of losing a child. Establishing a day to remember children who passed away will lend encouragement and support to bereaved families as they work through their grief. It is important for these families to know that they are not alone.

SENATE RESOLUTION 437—CELEBRATING THE LIFE OF JOSEPH IRWIN MILLER OF COLUMBUS, INDIANA

Mr. LUGAR (for himself and Mr. BAYH) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 437

Whereas Joseph Irwin Miller devoted his entire life to the welfare of his family, the employees of Cummins, Inc., and his community;

Whereas Joseph Irwin Miller demonstrated his lifelong love of country by serving honorably and courageously in the United States Navy Air Corps during World War II;

Whereas Joseph Irwin Miller's prowess and integrity as a businessman fashioned Cummins, Inc., into a respected industry leader whose unyielding commitment to its employees and community established a superior legacy of excellence and civic stewardship that will endure for years to come;

Whereas Joseph Irwin Miller was instrumental in transforming the place of his birth, Columbus, Indiana, into a thriving center for architecture and the arts;

Whereas Joseph Irwin Miller gave unselfishly his time and treasure to numerous causes and foundations dear to his ideals through his role as trusted advisor and generous philanthropist;

Whereas Joseph Irwin Miller was a respected counselor to leaders at home and abroad, and made immeasurable contributions to the advancement of human rights everywhere; and

Whereas Joseph Irwin Miller will be remembered as a loving husband to his wife Xenia, a devoted father to his 5 children, and a caring grandfather to his 10 grandchildren: Now, therefore, be it

Resolved, That the Senate—

(1) has learned with profound sorrow of the death of Joseph Irwin Miller on August 16, 2004, and extends its condolences to the Miller family, especially his wife Xenia, and his children Margaret, Catherine, Elizabeth, Hugh, and William;

(2) expresses its profound gratitude to Joseph Irwin Miller for the services that he rendered to the United States in the Navy;

(3) recognizes Joseph Irwin Miller's distinguished achievements in industry, his contributions to the world of architecture, his promotion of the arts and humanities, and his advancement of human rights; and

(4) recognizes with respect Joseph Irwin Miller's integrity and guidance as a leader, his treatment of his fellow citizens with grace and humility, and his loyalty, contributions, and service to the City of Columbus, the State of Indiana, and the United States.

SENATE RESOLUTION 438—SUPPORTING THE GOALS AND IDEALS OF NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH AND EXPRESSING THE SENSE OF THE SENATE THAT CONGRESS SHOULD RAISE AWARENESS OF DOMESTIC VIOLENCE IN THE UNITED STATES AND ITS DEVASTATING EFFECTS ON FAMILIES

Mr. BIDEN (for himself, Mr. HATCH, Mr. KOHL, Mrs. BOXER, Mrs. CLINTON, Ms. STABENOW, Mr. DAYTON, Mr. CORZINE, Mr. JOHNSON, Mr. LAUTENBERG, Mr. CARPER, Mrs. MURRAY, Mr. REID, Mr. WYDEN, Mr. LEAHY, Mr. KYL, Mr. CORNYN, Mr. DASCHLE, Ms. MURKOWSKI, Mr. FEINGOLD, Mr. DURBIN, Ms. CANTWELL, and Mrs. FEINSTEIN) submitted the following resolution; which was considered and agreed to:

S. RES. 438

Whereas 2004 marks the tenth anniversary of the enactment of the Violence Against Women Act of 1994 (Public Law 103–322, 108 Stat. 1902);

Whereas since the passage of the Violence Against Women Act of 1994, communities have made significant progress in reducing domestic violence such that between 1993 and 2001, the incidents of nonfatal domestic violence fell 49 percent;

Whereas since created by the Violence Against Women Act of 1994, the National Domestic Violence Hotline has answered over 1,000,000 calls;

Whereas States have passed over 660 State laws pertaining to domestic violence, stalking, and sexual assault;

Whereas the Violence Against Women Act of 1994 has helped make strides toward breaking the cycle of violence, but there remains much work to be done;

Whereas domestic violence affects women, men, and children of all racial, social, religious, ethnic, and economic groups in the United States;

Whereas on average, more than 3 women are murdered by their husbands or boyfriends in the United States every day;

Whereas women who have been abused are much more likely to suffer from chronic pain, diabetes, depression, unintended pregnancies, substance abuse, and sexually transmitted infections, including HIV/AIDS;

Whereas only about 10 percent of primary care physicians routinely screen for domestic violence during new patient visits, and 9 percent routinely screen during periodic checkups;

Whereas each year, about 324,000 pregnant women in the United States are battered by the men in their lives, leading to pregnancy complications, including low weight gain, anemia, infections, and first and second trimester bleeding;

Whereas every 2 minutes, someone in the United States is sexually assaulted;

Whereas almost 25 percent of women surveyed had been raped or physically assaulted by a spouse or boyfriend at some point in their lives;

Whereas in 2002 alone, 250,000 women and girls older than the age of 12 were raped or sexually assaulted;

Whereas 1 out of every 12 women has been stalked in her lifetime;

Whereas some cultural norms, economics, language barriers, and limited access to legal services and information may make some immigrant women particularly vulnerable to abuse;

Whereas 1 in 5 adolescent girls in the United States becomes a victim of physical or sexual abuse, or both, in a dating relationship;

Whereas 40 percent of girls ages 14 to 17 report knowing someone their age who has been hit or beaten by a boyfriend;

Whereas annually, approximately 8,800,000 children in the United States witness domestic violence;

Whereas witnessing violence is a risk factor for having long-term physical and mental health problems (including substance abuse), being a victim of abuse, and becoming a perpetrator of abuse;

Whereas a boy who witnesses his father's domestic violence is 10 times more likely to engage in domestic violence than a boy from a nonviolent home;

Whereas the cost of domestic violence, including rape, physical assault, and stalking, exceeds $5,800,000,000 each year, of which $4,100,000,000 is spent on direct medical and mental health care services;

Whereas 44 percent of the Nation's mayors identified domestic violence as a primary cause of homelessness;

Whereas 25 to 50 percent of abused women reported they lost a job due, in part, to domestic violence;

Whereas there is a need to increase the public awareness about, and understanding of, domestic violence and the needs of battered women and their children;

Whereas the month of October 2004 has been recognized as National Domestic Violence Awareness Month, a month for activities furthering awareness of domestic violence; and

Whereas the dedication and successes of those working tirelessly to end domestic violence and the strength of the survivors of domestic violence should be recognized: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of National Domestic Violence Awareness Month; and

(2) expresses the sense of the Senate that Congress should continue to raise awareness of domestic violence in the United States and its devastating impact on families.

SENATE RESOLUTION 439—RECOGNIZING THE CONTRIBUTIONS OF WISCONSIN NATIVE AMERICANS TO THE OPENING OF THE NATIONAL MUSEUM OF THE AMERICAN INDIAN

Mr. FEINGOLD (for himself and Mr. KOHL) submitted the following resolution; which was considered and agreed to:

S. RES. 439

Whereas the National Museum of the American Indian Act (20 U.S.C. 80q et seq.) established within the Smithsonian Institution the National Museum of the American Indian and authorized the construction of a facility to house the National Museum of the American Indian on the National Mall in the District of Columbia;

Whereas the National Museum of the American Indian officially opened on September 21, 2004;

Whereas the National Museum of the American Indian will be the only national museum devoted exclusively to the history and art of cultures indigenous to the Americas, and will give all Americans the opportunity to learn about the cultural legacy, historic grandeur, and contemporary culture of Native Americans, including the tribes that presently and historically occupy the State of Wisconsin;

Whereas the land that comprises the State of Wisconsin has been home to numerous Native American tribes for many years, including 11 federally recognized tribal governments: the Bad River Band of Lake Superior Chippewa Indians, the Forest County Potawatomi Indian Community, the Ho-Chunk Nation of Wisconsin, the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, the Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin, the Menominee Indian Tribe of Wisconsin, the Oneida Tribe of Indians of Wisconsin, the Red Cliff Band of Lake Superior Chippewa Indians, the Sokaogon Chippewa (Mole Lake) Community of Wisconsin, the St. Croix Chippewa Indians of Wisconsin, and the Stockbridge Munsee Community of Wisconsin; and

Whereas members of Native American tribes have greatly contributed to the unique culture and identity of Wisconsin by lending words from their languages to the names of many places in the State and by sharing their customs and beliefs with others who chose to make Wisconsin their home: Now, therefore, be it

Resolved, That the Senate—

(1) celebrates the official opening of the National Museum of the American Indian;

(2) recognizes the native people of Wisconsin, and of the entire United States, and their past, present, and future contributions to America's culture, history, and tradition; and

(3) requests that the Senate send an enrolled copy of this resolution to the chairpersons of Wisconsin's federally recognized tribes.

SENATE RESOLUTION 440—DESIGNATING THURSDAY, NOVEMBER 18, 2004, AS ''FEED AMERICA THURSDAY''

Mr. HATCH submitted the following resolution; which was considered and agreed to:

S. RES. 440

Whereas Thanksgiving Day celebrates the spirit of selfless giving and an appreciation for family and friends;

Whereas the spirit of Thanksgiving Day is a virtue upon which our Nation was founded;

Whereas 33,000,000 Americans, including 13,000,000 children, continue to live in households that do not have an adequate supply of food;

Whereas almost 3,000,000 of those children experience hunger; and

Whereas selfless sacrifice breeds a genuine spirit of Thanksgiving, both affirming and restoring fundamental principles in our society: Now, therefore, be it

Resolved, That the Senate—

(1) designates Thursday, November 18, 2004, as ''Feed America Thursday''; and

(2) requests that the President issue a proclamation calling upon the people of the United States to sacrifice 2 meals on Thursday, November 18, 2004, and to donate the money that they would have spent on food to a religious or charitable organization of their choice for the purpose of feeding the hungry.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3709. Mrs. HUTCHISON 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.

SA 3710. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3711. Mrs. HUTCHISON (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 2845, supra.

SA 3712. Mr. ROCKEFELLER (for himself, Mr. HOLLINGS, Ms. SNOWE, Mr. LAUTENBERG, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3713. Mr. JEFFORDS 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 3714. 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 3715. 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 3716. 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 3717. 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 3718. 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 3719. 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 3720. 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 3721. Mr. VOINOVICH (for himself and Mr. LUGAR) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3722. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3723. Mrs. HUTCHISON (for herself and Ms. MIKULSKI) submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3724. Mr. KYL (for himself, Mr. CORNYN, Mr. CHAMBLISS, and Mr. NICKLES) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3725. Mr. INHOFE (for himself and 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 3726. 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 3727. 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 3728. Mr. BROWNBACK (for himself and Mr. BAYH) proposed an amendment to the bill H.R. 4011, to promote human rights and freedom in the Democratic People's Republic of Korea, and for other purposes.

SA 3729. Mr. FRIST (for Mr. HATCH (for himself and Mr. LEAHY)) submitted an amendment intended to be proposed by Mr. Frist to the bill S. 2742, to extend certain authority of the Supreme Court Police, modify the venue of prosecutions relating to the Supreme Court building and grounds, and authorize the acceptance of gifts to the United States Supreme Court.

SA 3730. Mr. KYL (for himself, Mr. DOMENICI, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 437, to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River Indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes; which was ordered to lie on the table.

SA 3731. Ms. COLLINS (for Mr. INHOFE (for himself and Mr. JEFFORDS)) proposed an amendment 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.

SA 3732. Ms. COLLINS (for Mr. LEVIN (for himself and Ms. COLLINS)) proposed an amendment to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, supra.

SA 3733. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3734. 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 3735. 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 3736. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3737. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3738. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3739. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3740. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3741. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3742. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3743. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3744. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3745. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3746. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3747. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3748. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3749. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3750. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3751. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3752. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3753. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3754. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3709. Mrs. HUTCHISON 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:

TITLE —AIR CARGO SAFETY

SEC. —01. SHORT TITLE.

This title may be cited as the ''Air Cargo Security Improvement Act''.

SEC. —02. INSPECTION OF CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

Section 44901(f) of title 49, United States Code, is amended to read as follows:

''(f) CARGO.—

''(1) IN GENERAL.—The Under Secretary of Transportation for Security shall establish systems to screen, inspect, or otherwise ensure the security of all cargo that is to be transported in—

''(A) passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation; or

''(B) all-cargo aircraft in air transportation and intrastate air transportation.

''(2) STRATEGIC PLAN.—The Under Secretary shall develop a strategic plan to carry out paragraph (1) within 6 months after the date of enactment of the Air Cargo Security Improvement Act.

''(3) PILOT PROGRAM.—The Under Secretary shall conduct a pilot program of screening of cargo to assess the effectiveness of different screening measures, including the use of random screening. The Under Secretary shall attempt to achieve a distribution of airport participation in terms of geographic location and size.''.

SEC. —03. AIR CARGO SHIPPING.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

''§ 44923. Regular inspections of air cargo shipping facilities

''The Under Secretary of Transportation for Security shall establish a system for the regular inspection of shipping facilities for

shipments of cargo transported in air transportation or intrastate air transportation to ensure that appropriate security controls, systems, and protocols are observed, and shall enter into arrangements with the civil aviation authorities, or other appropriate officials, of foreign countries to ensure that inspections are conducted on a regular basis at shipping facilities for cargo transported in air transportation to the United States.''.

(b) ADDITIONAL INSPECTORS.—The Under Secretary may increase the number of inspectors as necessary to implement the requirements of title 49, United States Code, as amended by this subtitle.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, is amended by adding at the end the following:

''44923. Regular inspections of air cargo shipping facilities''.

SEC. —04. CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is further amended by adding at the end the following:

''§ 44924. Air cargo security

''(a) DATABASE.—The Under Secretary of Transportation for Security shall establish an industry-wide pilot program database of known shippers of cargo that is to be transported in passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation. The Under Secretary shall use the results of the pilot program to improve the known shipper program.

''(b) INDIRECT AIR CARRIERS.—

''(1) RANDOM INSPECTIONS.—The Under Secretary shall conduct random audits, investigations, and inspections of indirect air carrier facilities to determine if the indirect air carriers are meeting the security requirements of this title.

''(2) ENSURING COMPLIANCE.—The Under Secretary may take such actions as may be appropriate to promote and ensure compliance with the security standards established under this title.

''(3) NOTICE OF FAILURES.—The Under Secretary shall notify the Secretary of Transportation of any indirect air carrier that fails to meet security standards established under this title.

''(4) WITHDRAWAL OF SECURITY PROGRAM APPROVAL.—The Under Secretary may issue an order amending, modifying, suspending, or revoking approval of a security program of an indirect air carrier that fails to meet security requirements imposed by the Under Secretary if such failure threatens the security of air transportation or commerce. The affected indirect air carrier shall be given notice and the opportunity to correct its noncompliance unless the Under Secretary determines that an emergency exists. Any indirect air carrier that has the approval of its security program amended, modified, suspended, or revoked under this section may appeal the action in accordance with procedures established by the Under Secretary under this title.

''(5) INDIRECT AIR CARRIER.—In this subsection, the term 'indirect air carrier' has the meaning given that term in part 1548 of title 49, Code of Federal Regulations.

''(c) CONSIDERATION OF COMMUNITY NEEDS.—In implementing air cargo security requirements under this title, the Under Secretary may take into consideration the extraordinary air transportation needs of small or isolated communities and unique operational characteristics of carriers that serve those communities.''.

(b) ASSESSMENT OF INDIRECT AIR CARRIER PROGRAM.—The Under Secretary of Transportation for Security shall assess the security aspects of the indirect air carrier program under part 1548 of title 49, Code of Federal Regulations, and report the result of the assessment, together with any recommendations for necessary modifications of the program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 60 days after the date of enactment of this Act. The Under Secretary may submit the report and recommendations in classified form.

(c) REPORT TO CONGRESS ON RANDOM AUDITS.—The Under Secretary of Transportation for Security shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on random screening, audits, and investigations of air cargo security programs based on threat assessments and other relevant information. The report may be submitted in classified form.

(d) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, as amended by section 3, is amended by adding at the end the following:

''44924. Air cargo security''.

SEC. —05. TRAINING PROGRAM FOR CARGO HANDLERS.

The Under Secretary of Transportation for Security shall establish a training program for any persons that handle air cargo to ensure that the cargo is properly handled and safe-guarded from security breaches.

SEC. —06. CARGO CARRIED ABOARD ALL-CARGO AIRCRAFT.

(a) IN GENERAL.—The Under Secretary of Transportation for Security shall establish a program requiring that air carriers operating all-cargo aircraft have an approved plan for the security of their air operations area, the cargo placed aboard such aircraft, and persons having access to their aircraft on the ground or in flight.

(b) PLAN REQUIREMENTS.—The plan shall include provisions for—

(1) security of each carrier's air operations areas and cargo acceptance areas at the airports served;

(2) background security checks for all employees with access to the air operations area;

(3) appropriate training for all employees and contractors with security responsibilities;

(4) appropriate screening of all flight crews and persons transported aboard all-cargo aircraft;

(5) security procedures for cargo placed on all-cargo aircraft as provided in section 44901(f)(1)(B) of title 49, United States Code; and

(6) additional measures deemed necessary and appropriate by the Under Secretary.

(c) CONFIDENTIAL INDUSTRY REVIEW AND COMMENT.—

(1) CIRCULATION OF PROPOSED PROGRAM.—The Under Secretary shall—

(A) propose a program under subsection (a) within 90 days after the date of enactment of this Act; and

(B) distribute the proposed program, on a confidential basis, to those air carriers and other employers to which the program will apply.

(2) COMMENT PERIOD.—Any person to which the proposed program is distributed under paragraph (1) may provide comments on the proposed program to the Under Secretary not more than 60 days after it was received.

(3) FINAL PROGRAM.—The Under Secretary of Transportation shall issue a final program under subsection (a) not later than 90 days after the last date on which comments may be provided under paragraph (2). The final program shall contain time frames for the plans to be implemented by each air carrier or employer to which it applies.

(4) SUSPENSION OF PROCEDURAL NORMS.—Neither chapter 5 of title 5, United States Code, nor the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the program required by this section.

SEC. —07. PASSENGER IDENTIFICATION.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Under Secretary of Transportation for Security, in consultation with the Administrator of the Federal Aviation Administration, appropriate law enforcement, security, and terrorism experts, representatives of air carriers and labor organizations representing individuals employed in commercial aviation, shall develop guidelines to provide air carriers guidance for detecting false or fraudulent passenger identification. The guidelines may take into account new technology, current identification measures, training of personnel, and issues related to the types of identification available to the public. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any meeting held pursuant to this subsection.

(b) AIR CARRIER PROGRAMS.—Within 60 days after the Under Secretary issues the guidelines under subsection (a) in final form, the Under Secretary shall provide the guidelines to each air carrier and establish a joint government and industry council to develop recommendations on how to implement the guidelines.

(c) REPORT.—The Under Secretary of Transportation for Security shall report 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 on the actions taken under this section.

SEC. —08. PASSENGER IDENTIFICATION VERIFICATION.

(a) PROGRAM REQUIRED.—The Under Secretary of Transportation for Security may establish and carry out a program to require the installation and use at airports in the United States of the identification verification technologies the Under Secretary considers appropriate to assist in the screening of passengers boarding aircraft at such airports.

(b) TECHNOLOGIES EMPLOYED.—The identification verification technologies required as part of the program under subsection (a) may include identification scanners, biometrics, retinal, iris, or facial scanners, or any other technologies that the Under Secretary considers appropriate for purposes of the program.

(c) COMMENCEMENT.—If the Under Secretary determines that the implementation of such a program is appropriate, the installation and use of identification verification technologies under the program shall commence as soon as practicable after the date of that determination.

SA 3710. Mr. CHAMBLISS 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. UNIFIED COMBATANT COMMAND FOR MILITARY INTELLIGENCE.

(a) IN GENERAL.—Chapter 6 of title 10, United States Code, is amended by inserting after section 167a the following new section:

"§ 167b. Unified combatant command for military intelligence

''(a) ESTABLISHMENT.—(1) With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall establish under section 161 of this title a unified combatant command for military intelligence (hereinafter in this section referred to as the 'military intelligence command').

''(2) The principle functions of the military intelligence command are—

''(A) to coordinate all military intelligence activities;

''(B) to develop new military intelligence collection capabilities; and

''(C) to represent the Department of Defense in the intelligence community under the National Intelligence Director.

''(b) ASSIGNMENT OF FORCES AND CIVILIAN PERSONNEL.—(1) Unless otherwise directed by the Secretary of Defense, all active and reserve military intelligence forces of the armed forces within the elements of the Department of Defense referred to in subsection (i)(2) shall be assigned to the military intelligence command.

''(2) Unless otherwise directed by the Secretary of Defense, the civilian personnel of the elements of the Department of Defense referred to in subsection (i)(2) shall be under the military intelligence command.

''(c) GRADE OF COMMANDER.—The commander of the military intelligence command shall hold the grade of general or, in the case of an officer of the Navy, admiral while serving in that position, without vacating his permanent grade. The commander of such command shall be appointed by the President, by and with the consent of the Senate, for service in that position.

''(d) DUTIES OF COMMANDER.—Unless otherwise directed by the President or the Secretary of Defense, the commander of the military intelligence command shall—

''(1) carry out intelligence collection and analysis activities in response to requests from the National Intelligence Director; and

''(2) serve as the principle advisor to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the National Intelligence Director on all matters relating to military intelligence.

''(e) AUTHORITY OF COMMANDER.—(1) In addition to the authority prescribed in section 164(c) of this title, the commander of the military intelligence command shall be responsible for, and shall have the authority to conduct, all affairs of the command relating to military intelligence activities.

''(2) The commander of the military intelligence command shall be responsible for, and shall have the authority to conduct, the following functions relating to military intelligence activities:

''(A) Developing strategy, doctrine, and tactics.

''(B) Preparing and submitting to the Secretary of Defense and the National Intelligence Director recommendations and budget proposals for military intelligence forces and activities.

''(C) Exercising authority, direction, and control over the expenditure of funds for personnel and activities assigned to the command.

''(D) Training military and civilian personnel assigned to or under the command.

''(E) Conducting specialized courses of instruction for military and civilian personnel assigned to or under the command.

''(F) Validating requirements.

''(G) Establishing priorities for military intelligence in harmony with national priorities established by the National Intelligence Director and approved by the President.

''(H) Ensuring the interoperability of intelligence sharing within the Department of Defense and within the intelligence community as a whole, as directed by the National Intelligence Director.

''(I) Formulating and submitting requirements to other commanders of the unified combatant commands to support military intelligence activities.

''(J) Recommending to the Secretary of Defense individuals to head the components of the command.

''(3) The commander of the military intelligence command shall be responsible for—

''(A) ensuring that the military intelligence requirements of the other unified combatant commanders are satisfied; and

''(B) responding to intelligence requirements levied by the National Intelligence Director.

''(4)(A) The commander of the military intelligence command shall be responsible for, and shall have the authority to conduct the development and acquisition of specialized technical intelligence capabilities.

''(B) Subject to the authority, direction, and control of the Secretary of Defense, the commander of the command, in carrying out the function under subparagraph (A), shall have authority to exercise the functions of the head of an agency under chapter 137 of this title.

''(f) INSPECTOR GENERAL.—The staff of the commander of the military intelligence command shall include an inspector general who shall conduct internal audits and inspections of purchasing and contracting actions through the command and such other inspector general functions as may be assigned.

''(g) BUDGET MATTERS.—(1) The commander of the military intelligence command shall, with guidance from the National Intelligence Director, prepare the annual budgets for the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities program that are presented by the Secretary of Defense to the President.

''(2) In addition to the activities of a combatant commander for which funding may be requested under section 166(b) of this title, the budget proposal for the military intelligence command shall include requests for funding for—

''(A) development and acquisition of military intelligence collection systems; and

''(B) acquisition of other material, supplies, or services that are peculiar to military intelligence activities.

''(h) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the activities of the military intelligence command. The regulations shall include authorization for the commander of the command to provide for operational security of military intelligence forces, civilian personnel, and activities.

''(i) IDENTIFICATION OF MILITARY INTELLIGENCE FORCES.—(1) For purposes of this section, military intelligence forces are the following:

''(A) The forces of the elements of the Department of Defense referred to in paragraph (2) that carry out military intelligence activities.

''(B) Any other forces of the armed forces that are designated as military intelligence forces by the Secretary of Defense.

''(2) The elements of the Department of Defense referred to in this paragraph are as follows:

''(A) The Defense Intelligence Agency.

''(B) The National Security Agency.

''(C) The National Geospatial-Intelligence Agency.

''(D) The National Reconnaissance Office.

''(E) Any intelligence activities or units of the military departments designated by the Secretary of Defense for purposes of this section.

''(j) MILITARY INTELLIGENCE ACTIVITIES.—For purposes of this section, military intelligence activities include each of the following insofar as it relates to military intelligence:

''(1) Intelligence collection.

''(2) Intelligence analysis.

''(3) Intelligence information management.

''(4) Intelligence workforce planning.

''(5) Such other activities as may be specified by the President or the Secretary of Defense.''.

''(k) INTELLIGENCE COMMUNITY DEFINED.—In this section, the term 'intelligence community' means the elements of the intelligence community listed or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 167a the following new item:

''167b. Unified combatant command for military intelligence.''.

SA 3711. Mrs. HUTCHISON (for herself and 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:

TITLE —AIR CARGO SAFETY

SEC. —01. SHORT TITLE.

This title may be cited as the ''Air Cargo Security Improvement Act''.

SEC. —02. INSPECTION OF CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

Section 44901(f) of title 49, United States Code, is amended to read as follows:

''(f) CARGO.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall establish systems to screen, inspect, or otherwise ensure the security of all cargo that is to be transported in—

''(A) passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation; or

''(B) all-cargo aircraft in air transportation and intrastate air transportation.

''(2) STRATEGIC PLAN.—The Secretary shall develop a strategic plan to carry out paragraph (1) within 6 months after the date of enactment of the Air Cargo Security Improvement Act.

''(3) PILOT PROGRAM.—The Secretary shall conduct a pilot program of screening of cargo to assess the effectiveness of different screening measures, including the use of random screening. The Secretary shall attempt to achieve a distribution of airport participation in terms of geographic location and size.''.

SEC. —03. AIR CARGO SHIPPING.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

"§ 44925. Regular inspections of air cargo shipping facilities

''The Secretary of Homeland Security shall establish a system for the regular inspection of shipping facilities for shipments of cargo transported in air transportation or intrastate air transportation to ensure that appropriate security controls, systems, and protocols are observed, and shall enter into arrangements with the civil aviation authorities, or other appropriate officials, of foreign countries to ensure that inspections are conducted on a regular basis at shipping

facilities for cargo transported in air transportation to the United States.''.

(b) ADDITIONAL INSPECTORS.—The Secretary may increase the number of inspectors as necessary to implement the requirements of title 49, United States Code, as amended by this subtitle.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, is amended by adding at the end the following:

''44925. Regular inspections of air cargo shipping facilities''.

SEC. —04. CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is further amended by adding at the end the following:

''§ 44926. Air cargo security

''(a) DATABASE.—The Secretary of Homeland Security shall establish an industry-wide pilot program database of known shippers of cargo that is to be transported in passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation. The Secretary shall use the results of the pilot program to improve the known shipper program.

''(b) INDIRECT AIR CARRIERS.—

''(1) RANDOM INSPECTIONS.—The Secretary shall conduct random audits, investigations, and inspections of indirect air carrier facilities to determine if the indirect air carriers are meeting the security requirements of this title.

''(2) ENSURING COMPLIANCE.—The Secretary may take such actions as may be appropriate to promote and ensure compliance with the security standards established under this title.

''(3) NOTICE OF FAILURES.—The Secretary shall notify the Secretary of Transportation of any indirect air carrier that fails to meet security standards established under this title.

''(4) WITHDRAWAL OF SECURITY PROGRAM APPROVAL.—The Secretary may issue an order amending, modifying, suspending, or revoking approval of a security program of an indirect air carrier that fails to meet security requirements imposed by the Secretary if such failure threatens the security of air transportation or commerce. The affected indirect air carrier shall be given notice and the opportunity to correct its noncompliance unless the Secretary determines that an emergency exists. Any indirect air carrier that has the approval of its security program amended, modified, suspended, or revoked under this section may appeal the action in accordance with procedures established by the Secretary under this title.

''(5) INDIRECT AIR CARRIER.—In this subsection, the term 'indirect air carrier' has the meaning given that term in part 1548 of title 49, Code of Federal Regulations.

''(c) CONSIDERATION OF COMMUNITY NEEDS.—In implementing air cargo security requirements under this title, the Secretary may take into consideration the extraordinary air transportation needs of small or isolated communities and unique operational characteristics of carriers that serve those communities.''.

(b) ASSESSMENT OF INDIRECT AIR CARRIER PROGRAM.—The Secretary of Homeland Security shall assess the security aspects of the indirect air carrier program under part 1548 of title 49, Code of Federal Regulations, and report the result of the assessment, together with any recommendations for necessary modifications of the program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 60 days after the date of enactment of this Act. The Secretary may submit the report and recommendations in classified form.

(c) REPORT TO CONGRESS ON RANDOM AUDITS.—The Secretary of Homeland Security shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on random screening, audits, and investigations of air cargo security programs based on threat assessments and other relevant information. The report may be submitted in classified form.

(d) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, as amended by section 3, is amended by adding at the end the following: ''44926. Air cargo security''.

SEC. —05. TRAINING PROGRAM FOR CARGO HANDLERS.

The Secretary of Homeland Security shall establish a training program for any persons that handle air cargo to ensure that the cargo is properly handled and safe-guarded from security breaches.

SEC. —06. CARGO CARRIED ABOARD ALL-CARGO AIRCRAFT.

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a program requiring that air carriers operating all-cargo aircraft have an approved plan for the security of their air operations area, the cargo placed aboard such aircraft, and persons having access to their aircraft on the ground or in flight.

(b) PLAN REQUIREMENTS.—The plan shall include provisions for—

(1) security of each carrier's air operations areas and cargo acceptance areas at the airports served;

(2) background security checks for all employees with access to the air operations area;

(3) appropriate training for all employees and contractors with security responsibilities;

(4) appropriate screening of all flight crews and persons transported aboard all-cargo aircraft;

(5) security procedures for cargo placed on all-cargo aircraft as provided in section 44901(f)(1)(B) of title 49, United States Code; and

(6) additional measures deemed necessary and appropriate by the Secretary.

(c) CONFIDENTIAL INDUSTRY REVIEW AND COMMENT.—

(1) CIRCULATION OF PROPOSED PROGRAM.—The Secretary shall—

(A) propose a program under subsection (a) within 90 days after the date of enactment of this Act; and

(B) distribute the proposed program, on a confidential basis, to those air carriers and other employers to which the program will apply.

(2) COMMENT PERIOD.—Any person to which the proposed program is distributed under paragraph (1) may provide comments on the proposed program to the Secretary not more than 60 days after it was received.

(3) FINAL PROGRAM.—The Secretary of Homeland Security shall issue a final program under subsection (a) not later than 90 days after the last date on which comments may be provided under paragraph (2). The final program shall contain time frames for the plans to be implemented by each air carrier or employer to which it applies.

(4) SUSPENSION OF PROCEDURAL NORMS.—Neither chapter 5 of title 5, United States Code, nor the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the program required by this section.

SEC. —07. PASSENGER IDENTIFICATION VERIFICATION.

(a) PROGRAM REQUIRED.—The Secretary of Homeland Security may establish and carry out a program to require the installation and use at airports in the United States of the identification verification technologies the Secretary considers appropriate to assist in the screening of passengers boarding aircraft at such airports.

(b) TECHNOLOGIES EMPLOYED.—The identification verification technologies required as part of the program under subsection (a) may include identification scanners, biometrics, retinal, iris, or facial scanners, or any other technologies that the Secretary considers appropriate for purposes of the program.

(c) COMMENCEMENT.—If the Secretary determines that the implementation of such a program is appropriate, the installation and use of identification verification technologies under the program shall commence as soon as practicable after the date of that determination.

SA 3712. Mr. ROCKEFELLER (for himself, Mr. HOLLINGS, Ms. SNOWE, Mr. LAUTENBERG, and 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; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —AVIATION SECURITY

SEC. 01. IMPROVED PILOT LICENSES.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Federal Aviation Administrator shall develop a system for the issuance of any pilot's license issued more than 180 days after the date of enactment of this Act that—

(1) are resistant to tampering, alteration, and counterfeiting;

(2) include a photograph of the individual to whom the license is issued; and

(3) are capable of accommodating a digital photograph, a biometric measure, or other unique identifier that provides a means of—

(A) ensuring its validity; and

(B) revealing whether any component or security feature of the license has been compromised.

(b) USE OF DESIGNEES.—The Administrator of the Federal Aviation Administration shall use designees to carry out subsection (a) to the extent feasible in order to minimize the burden of such requirements on pilots.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator for fiscal year 2005, $50,000,000 to carry out subsection (a).

SEC. 02. AIRCRAFT CHARTER CUSTOMER SCREENING.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall implement a procedure under which—

(1) any person engaged in the business of chartering fixed wing or rotary aircraft to the public may contact the Transportation Security Administration before permitting passengers to board the aircraft for the first time;

(2) the Transportation Security Administration immediately will compare information about the individual seeking to charter an aircraft and any passengers proposed to be transported onboard the aircraft with a comprehensive, consolidated database containing information about known or suspected terrorists and their associates; and

(3) control of the aircraft will not be relinquished if the Transportation Security Agency determines that such individual, pilot, or

passenger is identified as a flight security or terrorism risk.

(b) PRIVACY SAFEGUARDS.—Under the procedure, the Secretary shall ensure that—

(1) the person required to compare the information will not be given any information about the individual whose name is being checked other than whether permission to charter the aircraft is granted or denied; and

(2) an individual denied access to an aircraft under the procedure is given an opportunity to consult the Transportation Security Agency immediately, or as expeditiously as practicable, for the purpose of correcting mis-identification errors, resolving confusion resulting from names that are the same as or similar to names on the list, or addressing other erroneous information that may have resulted in the denial.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to carry out the provisions of this section.

SEC. 03. AIRCRAFT RENTAL CUSTOMER SCREENING.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall implement a procedure under which—

(1) any person engaged in the business of renting fixed wing or rotary aircraft to the public may contact the Transportation Security Administration before permitting an individual seeking to rent an aircraft to have access to the aircraft for the first time;

(2) the Transportation Security Administration immediately will compare information about the individual seeking to rent the aircraft with a comprehensive, consolidated database containing information about known or suspected terrorists and their associates; and

(3) the individual will not be permitted to take control of the aircraft if the Transportation Security Agency determines that the individual is a flight security or terrorism risk.

(b) PILOT PROGRAM.—Before fully implementing the program under subsection (a), the Secretary shall test the program through a demonstration project.

(c) PRIVACY SAFEGUARDS.—Under the procedure, the Secretary shall ensure that—

(1) the person required to compare the information will not be given any information about the individual whose name is being checked other than whether permission to rent the aircraft is granted or denied; and

(2) an individual denied access to an aircraft under the procedure is given an opportunity to consult the Transportation Security Agency immediately, or as expeditiously as practicable, for the purpose of correcting mis-identification errors, resolving confusion resulting from names that are the same as or similar to names on the list, or addressing other erroneous information that may have resulted in the denial.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to carry out the provisions of this section.

SEC. 04. AVIATION SECURITY STAFFING.

(a) STAFFING LEVEL STANDARDS.—

(1) DEVELOPMENT OF STANDARDS.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation and Federal Security Directors, shall develop standards for determining the appropriate aviation security staffing standards for all commercial airports in the United States necessary—

(A) to provide necessary levels of aviation security; and

(B) to ensure that the average aviation security-related delay experienced by airline passengers is minimized.

(2) GAO ANALYSIS.—The Comptroller General shall, as soon as practicable after the date on which the Secretary of Homeland Security has developed standards under paragraph (1), conduct an expedited analysis of the standards for effectiveness, administrability, ease of compliance, and consistency with the requirements of existing law.

(3) REPORT TO CONGRESS.—Within 120 days after the date of enactment of this Act, the Secretary of Homeland Security and the Comptroller General 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 standards developed under paragraph (1), together with recommendations for further improving the efficiency and effectiveness of the screening process.

(b) INTEGRATION OF FEDERAL AIRPORT WORKFORCE AND AVIATION SECURITY.—The Secretary of Homeland Security shall conduct a study of the feasibility of combining operations of Federal employees involved in screening at commercial airports and aviation security related functions under the aegis of the Department of Homeland Security in order to coordinate security-related activities, increase the efficiency and effectiveness of those activities, and increase commercial air transportation security.

SEC. 05. IMPROVED AIR CARGO AND AIRPORT SECURITY.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration, in addition to any amounts otherwise authorized by law, for the purpose of improving aviation security related to the transportation of cargo on both passenger aircraft and all-cargo aircraft—

(1) $200,000,000 for fiscal year 2005;

(2) $200,000,000 for fiscal year 2006; and

(3) $200,000,000 for fiscal year 2007.

(b) NEXT-GENERATION CARGO SECURITY GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish and carry out a grant program to facilitate the development, testing, purchase, and deployment of next-generation air cargo security technology. The Secretary shall establish such eligibility criteria, establish such application and administrative procedures, and provide for such matching funding requirements, if any, as may be necessary and appropriate to ensure that the technology is deployed as fully and as rapidly as practicable.

(2) RESEARCH AND DEVELOPMENT; DEPLOYMENT.—To carry out paragraph (1), there are authorized to be appropriated to the Secretary for research and development related to next-generation air cargo security technology as well as for deployment and installation of next-generation air cargo security technology, such sums are to remain available until expended—

(A) $100,000,000 for fiscal year 2005;

(B) $100,000,000 for fiscal year 2006; and

(C) $100,000,000 for fiscal year 2007.

(c) AUTHORIZATION FOR EXPIRING AND NEW LOIs.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary $150,000,000 for each of fiscal years 2005 through 2007 to fund projects and activities for which letters of intent are issued under section 44923 of title 49, United States Code, after the date of enactment of this Act.

(2) PERIOD OF REIMBURSEMENT.—Notwithstanding any other provision of law, the Secretary may provide that the period of reimbursement under any letter of intent may extend for a period not to exceed 10 years after the date that the Secretary issues such letter, subject to the availability of appropriations. This paragraph applies to letters of intent issued under section 44923 of title 49, United States Code, or section 367 of the Department of Transportation and Related Agencies Appropriation Act, 2003 (49 U.S.C. 47110 note).

(d) REPORTS.—The Secretary shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on—

(1) the progress being made toward, and the status of, deployment and installation of next-generation air cargo security technology under subsection (b); and

(2) the amount and purpose of grants under subsection (b) and the locations of projects funded by such grants.

SEC. 06. AIR CARGO SECURITY MEASURES.

(a) ENHANCEMENT OF AIR CARGO SECURITY.—The Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall develop and implement a plan to enhance air cargo security at airports for commercial passenger and cargo aircraft that incorporates the recommendations made by the Cargo Security Working Group of the Aviation Security Advisory Committee.

(b) SUPPLY CHAIN SECURITY.—The Administrator of the Transportation Security Administration shall—

(1) promulgate regulations requiring the evaluation of indirect air carriers and ground handling agents, including background checks and checks against all Administration watch lists; and

(2) evaluate the potential efficacy of increased use of canine detection teams to inspect air cargo on passenger and all-cargo aircraft.

(c) INCREASED CARGO INSPECTIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall require that the volume of property screened or inspected is at least two-fold the volume that is screened or inspected on the date of enactment of this Act. For purposes of the preceding sentence, the term ''property'' means mail, cargo, and other articles carried aboard a passenger aircraft operated by an air carrier or foreign air carrier in air transportation.

(c) ALL-CARGO AIRCRAFT SECURITY.—Subchapter I of chapter 449, United States Code, is amended by adding at the end the following:

''§ 44925. All-cargo aircraft security

''(a) ACCESS TO FLIGHT DECK.—Within 180 days after the date of enactment of this Act, the Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, shall—

''(1) issue an order (without regard to the provisions of chapter 5 of title 5)—

''(A) requiring, to the extent consistent with engineering and safety standards, that all cargo aircraft operators engaged in air transportation or intrastate air transportation maintain a barrier, which may include the use of a hardened cockpit door, between the aircraft flight deck and the aircraft cargo compartment sufficient to prevent unauthorized access to the flight deck from the cargo compartment, in accordance with the terms of a plan presented to and accepted by the Administrator of the Transportation Security Administration in consultation with the Federal Aviation Administrator; and

''(B) prohibiting the possession of a key to a flight deck door by any member of the flight crew who is not assigned to the flight deck; and

''(2) take such other action, including modification of safety and security procedures and flight deck redesign, as may be necessary to ensure the safety and security of the flight deck.

''(b) SCREENING AND OTHER MEASURES.—Within 1 year after the date of enactment of this Act, the Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, shall issue an order (without regard to the provisions of chapter 5 of title 5) requiring—

''(1) all-cargo aircraft operators engaged in air transportation or intrastate air transportation to physically screen each person, and that person's baggage and personal effects, to be transported on an all-cargo aircraft engaged in air transportation or intrastate air transportation;

''(2) each such aircraft to be physically searched before the first leg of the first flight of the aircraft each day, or, for inbound international operations, at aircraft operator's option prior to the departure of any such flight for a point in the United States; and

''(3) each such aircraft that is unattended overnight to be secured or sealed or to have access stairs, if any, removed from the aircraft.

''(c) ALTERNATIVE MEASURES.—The Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, may authorize alternative means of compliance with any requirement imposed under this section.''.

(d) CONFORMING AMENDMENT.—The subchapter analysis for subchapter I of chapter 449, United States Code, is amended by adding at the end the following:

''44925. All-cargo aircraft security.''.

SEC. 07. EXPLOSIVE DETECTION SYSTEMS.

(a) IN-LINE PLACEMENT OF EXPLOSIVE-DETECTION EQUIPMENT.—Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall establish a schedule for replacing trace-detection equipment used for in-line baggage screening purposes as soon as practicable where appropriate with explosive detection system equipment. The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure of the schedule and provide an estimate of the impact of replacing such equipment, facility modification and baggage conveyor placement, on aviation security-related staffing needs and levels.

(b) NEXT GENERATION EDS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $100,000,000, in addition to any amounts otherwise authorized by law, for the purpose of research and development of next generation explosive detection systems for aviation security under section 44913 of title 49, United States Code. The Secretary shall develop a plan and guidelines for implementing improved explosive detection system equipment.

(c) PORTAL DETECTION SYSTEMS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $250,000,000, in addition to any amounts otherwise authorized by law, for research and development and installation of portal detection systems or similar devices for the detection of biological, radiological, and explosive materials. The Secretary of Homeland Security shall establish a pilot program at not more than 10 commercial service airports to evaluate the use of such systems.

(d) REPORTS.—The Secretary shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on research and development projects funded under subsection (b) or (c), and the pilot program established under subsection (c), including cost estimates for each phase of such projects and total project costs.

SEC. 08. AIR MARSHAL PROGRAM.

(a) CROSS-TRAINING.—The Secretary of Homeland Security shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the potential for cross-training of individuals who serve as air marshals and on the need for providing contingency funding for air marshal operations.

(b) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration, in addition to any amounts otherwise authorized by law, for the deployment of Federal Air Marshals under section 44917 of title 49, United States Code, $83,000,000 for the 3 fiscal year period beginning with fiscal year 2005, such sums to remain available until expended.

SEC. 09. TSA-RELATED BAGGAGE CLAIM ISSUES STUDY.

Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the present system for addressing lost, stolen, damaged, or pilfered baggage claims relating to air transportation security screening procedures. The report shall include—

(1) information concerning the time it takes to settle such claims under the present system,

(2) a comparison and analysis of the number, frequency, and nature of such claims before and after enactment of the Aviation and Transportation Security Act using data provided by the major United States airlines; and

(3) recommendations on how to improve the involvement and participation of the airlines in the baggage screening and handling processes and better coordinate the activities of Federal baggage screeners with airline operations.

SEC. 10. REPORT ON IMPLEMENTATION OF GAO HOMELAND SECURITY INFORMATION SHARING RECOMMENDATIONS.

Within 30 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the heads of Federal departments and agencies concerned, shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on implementation of recommendations contained in the General Accounting Office's report titled ''Homeland Security: Efforts To Improve Information Sharing Need To Be Strengthened'' (GAO–03–760), August, 2003.

SEC. 11. AVIATION SECURITY RESEARCH AND DEVELOPMENT.

(a) BIOMETRICS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $20,000,000, in addition to any amounts otherwise authorized by law, for research and development of biometric technology applications to aviation security.

(b) BIOMETRICS CENTERS OF EXCELLENCE.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $1,000,000, in addition to any amounts otherwise authorized by law, for the establishment of competitive centers of excellence at the national laboratories.

SEC. 12. PERIMETER ACCESS TECHNOLOGY.

There are authorized to be appropriated to the Secretary of Homeland Security $100,000,000 for airport perimeter security technology, fencing, security contracts, vehicle tagging, and other perimeter security related operations, facilities, and equipment, such sums to remain available until expended.

SEC. 13. BEREAVEMENT FARES.

(a) IN GENERAL.—Chapter 415 of title 49, United States Code, is amended by adding at the end the following:

''§ 41512. Bereavement fares.

''Air carriers shall offer, with appropriate documentation, bereavement fares to the public for air transportation in connection with the death of a relative or other relationship (as determined by the air carrier) and shall make such fares available, to the greatest extent practicable, at the lowest fare offered by the air carrier for the flight for which the bereavement fare is requested.''

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 415 is amended by inserting after the item relating to section 41511 the following:

''41512. Bereavement fares''.

SEC. 14. REVIEW AND REVISION OF PROHIBITED ITEMS LIST.

Not later than 60 days after the date of enactment of this Act, the Transportation Security Administration shall complete a review of its Prohibited Items List, set forth in 49 C.F.R. 1540, and release a revised rule that—

(1) prohibits passengers from carrying butane lighters onboard passenger aircraft; and

(2) modifies the Prohibited Items List in such other ways as the agency may deem appropriate.

SEC. 15. REPORT ON PROTECTING COMMERCIAL AIRCRAFT FROM THE THREAT OF MAN-PORTABLE AIR DEFENSE SYSTEMS.

(a) REQUIREMENT.—The Secretary of Homeland Security, in coordination with the head of the Transportation Security Administration and the Under Secretary for Science and Technology, shall prepare a report on protecting commercial aircraft from the threat of man-portable air defense systems (referred to in this section as ''MANPADS'') .

(b) CONTENT.—The report required by subsection (a) shall include the following:

(1) An estimate of the number of organizations, including terrorist organizations, that have access to MANPADS and a description of the risk posed by each organization.

(2) A description of the programs carried out by the Secretary of Homeland Security to protect commercial aircraft from the threat posed by MANPADS.

(3) An assessment of the effectiveness and feasibility of the systems to protect commercial aircraft under consideration by the Under Secretary for Science and Technology for use in phase II of the counter-MANPADS development and demonstration program.

(4) A justification for the schedule of the implementation of phase II of the counter-MANPADS development and demonstration program.

(5) An assessment of the effectiveness of other technology that could be employed on commercial aircraft to address the threat posed by MANPADS, including such technology that is—

(A) either active or passive;

(B) employed by the Armed Forces; or

(C) being assessed or employed by other countries.

(6) An assessment of alternate technological approaches to address such threat, including ground-based systems.

(7) A discussion of issues related to any contractor liability associated with the installation or use of technology or systems on commercial aircraft to address such threat.

(8) A description of the strategies that the Secretary may employ to acquire any technology or systems selected for use on commercial aircraft at the conclusion of phase II of the counter-MANPADS development and demonstration program, including—

(A) a schedule for purchasing and installing such technology or systems on commercial aircraft; and

(B) a description of—

(i) the priority in which commercial aircraft will be equipped with such technology or systems;

(ii) any efforts to coordinate the schedules for installing such technology or system with private airlines;

(iii) any efforts to ensure that aircraft manufacturers integrate such technology or systems into new aircraft; and

(iv) the cost to operate and support such technology or systems on a commercial aircraft.

(9) A description of the plan to expedite the use of technology or systems on commercial aircraft to address the threat posed by MANPADS if intelligence or events indicate that the schedule for the use of such technology or systems, including the schedule for carrying out development and demonstration programs by the Secretary, should be expedited.

(10) A description of the efforts of the Secretary to survey and identify the areas at domestic and foreign airports where commercial aircraft are most vulnerable to attack by MANPADS.

(11) A description of the cooperation between the Secretary and the Administrator of the Federal Aviation Administration to certify the airworthiness and safety of technology and systems to protect commercial aircraft from the risk posed by MANPADS in an expeditious manner.

(c) TRANSMISSION TO CONGRESS.—The report required by subsection (a) shall be transmitted to Congress along with the budget for fiscal year 2006 submitted by the President pursuant to section 1105(a) of title 31, United States Code.

SEC. 16. SCREENING DEVICES TO DETECT CHEMICAL AND PLASTIC EXPLOSIVES.

Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall provide to the Senate Committee on Commerce, Science, and Transportation a report on the current status of efforts, and the additional needs, regarding passenger and carry-on baggage screening equipment at United States airports to detect chemical and plastic explosives. The report shall include the cost of and timetable for installing such equipment and any recommended legislative actions.

SEC. 17. REPORTS ON THE FEDERAL AIR MARSHALS PROGRAM.

Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter, the Secretary of Homeland Security shall provide to the Senate Committee on Commerce, Science, and Transportation a classified report on the number of individuals serving as Federal air marshals. Such report shall include the number of Federal air marshals who are women, minorities, or employees of departments or agencies of the United States Government other than the Department of Homeland Security, the percentage of domestic and international flights that have a Federal air marshal aboard, and the rate at which individuals are leaving service as Federal air marshals.

SEC. 18. SECURITY OF AIR MARSHAL IDENTITY.

(a) IN GENERAL.—The Secretary of the Department of Homeland Security shall designate individuals and parties to whom Federal air marshals shall be required to identify themselves.

(b) PROHIBITION.—Notwithstanding any other provision of law, no procedure, guideline, rule, regulation, or other policy shall expose the identity of an air marshal to anyone other than those designated by the Secretary under subsection (a).

SEC. 19. SECURITY MONITORING CAMERAS FOR AIRPORT BAGGAGE HANDLING AREAS.

(a) IN GENERAL.—The Under Secretary of Homeland Security for Border Transportation and Security shall provide assistance to public airports that have baggage handling areas that are not open to public view in the acquisition and installation of security monitoring cameras for surveillance of such areas in order to deter theft from checked baggage and to aid in the speedy resolution of liability claims against the Transportation Security Administration.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for fiscal year 2005 such sums as may be necessary to carry out this section, such sums to remain available until expended.

SEC. 20. EFFECTIVE DATE.

This title takes effect on the date of enactment of this Act.

SA. 3713. Mr. JEFFORDS 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 13 after line 9, insert the following:

''(a) IN GENERAL.—Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) is amended by adding at the end the following:''

SA 3714. 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 45, strike lines 1 through 10 and insert the following:

(6) The Officer for Civil Rights and Civil Liberties of the Intelligence Community.

(7) The Privacy Officer of the Intelligence Community.

(8) The Chief Information Officer of the Intelligence Community.

(9) The Chief Human Capital Officer of the Intelligence Community.

(10) The Chief Financial Officer of the Intelligence Community.

On page 52, strike line 21 and all that follows through page 53, line 7, and insert the following:

SEC. 126. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES OF THE INTELLIGENCE COMMUNITY.

(a) OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES OF INTELLIGENCE COMMUNITY.—There is an Officer for Civil Rights and Civil Liberties of the Intelligence Community who shall be appointed by the President.

(b) SUPERVISION.—The Officer for Civil Rights and Civil Liberties of the Intelligence Community shall report directly to the National Intelligence Director.

(c) DUTIES.—The Officer for Civil Rights and Civil Liberties of the Intelligence Community shall—

On page 53, beginning on line 14, strike ''National Intelligence Authority;'' and insert ''elements of the intelligence community; and''.

On page 53, beginning on line 18, strike ''within the National Intelligence Program''.

On page 53, strike lines 20 through 24.

On page 54, line 1, strike ''the Authority'' and insert ''the elements of the intelligence community''.

On page 54, line 11, strike ''the Authority'' and insert ''the elements of the intelligence community''.

On page 55, strike lines 1 through 15 and insert the following:

SEC. 127. PRIVACY OFFICER OF THE INTELLIGENCE COMMUNITY.

(a) PRIVACY OFFICER OF INTELLIGENCE COMMUNITY.—There is a Privacy Officer of the Intelligence Community who shall be appointed by the National Intelligence Director.

(b) DUTIES.—(1) The Privacy Officer of the Intelligence Community shall have primary responsibility for the privacy policy of the intelligence community, including in the relationships among the elements of the intelligence community.

On page 56, strike lines 9 through 16 and insert the following:

SEC. 128. CHIEF INFORMATION OFFICER OF THE INTELLIGENCE COMMUNITY.

(a) CHIEF INFORMATION OFFICER OF INTELLIGENCE COMMUNITY.—There is a Chief Information Officer of the Intelligence Community who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Chief Information Officer of the Intelligence Community shall—

On page 57, strike line 1 and all that follows through page 59, line 7, and insert the following:

SEC. 129. CHIEF HUMAN CAPITAL OFFICER OF THE INTELLIGENCE COMMUNITY.

(a) CHIEF HUMAN CAPITAL OFFICER OF INTELLIGENCE COMMUNITY.—There is a Chief Human Capital Officer of the Intelligence Community who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Chief Human Capital Officer of the Intelligence Community 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 elements of the intelligence community; and

(2) otherwise 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.

SEC. 130. CHIEF FINANCIAL OFFICER OF THE INTELLIGENCE COMMUNITY.

(a) CHIEF FINANCIAL OFFICER OF INTELLIGENCE COMMUNITY.—There is a Chief Financial Officer of the Intelligence Community 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 Intelligence Community 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 Intelligence Community shall have such authorities, and carry out such functions, with respect to the elements of the intelligence community 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 Intelligence Community 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 Intelligence Community 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 Intelligence Community shall take appropriate actions to ensure the timely and effective integration of the financial systems of the elements of the intelligence community as soon as possible after the date of the enactment of this Act.

On page 60, strike lines 5 through 13 and insert the following:

SEC. 141. INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY.

(a) OFFICE OF INSPECTOR GENERAL OF INTELLIGENCE COMMUNITY.—There is within the National Intelligence Authority an Office of the Inspector General of the Intelligence Community.

(b) PURPOSE.—The purpose of the Office of the Inspector General of the Intelligence Community is to—

On page 60, line 19, insert ''and'' at the end.

On page 60, line 22, strike ''and'' at the end.

On page 60, strike line 23 and all that follows through page 61, line 2.

On page 62, strike lines 1 through 7 and insert the following:

(c) INSPECTOR GENERAL OF INTELLIGENCE COMMUNITY.—(1) There is an Inspector General of the Intelligence Community, who shall be the head of the Office of the Inspector General of the Intelligence Community, who shall be appointed by the President, by and with the advice and consent of the Senate.

On page 62, beginning on line 12 strike ''National Intelligence Authority'' and insert ''intelligence community''.

On page 63, beginning on line 2, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 63, beginning on line 8, strike '', the relationships among'' and all that follows through ''the other elements of the intelligence community'' and insert ''and the relationships among the elements of the intelligence community''.

On page 64, line 11, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 65, line 7, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 65, beginning on line 12, strike ''the National Intelligence Authority, and of any other element of the intelligence community within the National Intelligence Program,'' and insert ''any element of the intelligence community''.

On page 66, line 2, strike ''the National Intelligence Authority'' and insert ''an element of the intelligence community''.

On page 67, beginning on line 9, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 68, line 9, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 69, line 3, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 69, line 22, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 70, line 1, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 70, beginning on line 12, strike ''National Intelligence Authority'' and insert ''elements of the intelligence community''.

On page 71, beginning on line 16, strike ''the Authority'' and insert ''any element of the intelligence community''.

On page 72, beginning on line 3, strike ''the Authority'' and all that follows through line 8 and insert ''an element of the intelligence community or in a relationship between the elements of the intelligence community.''.

On page 72, beginning on line 21, strike ''Authority official who holds or held a position in the Authority'' and insert ''an official of an element of the intelligence community who holds or held in such element a position''.

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 of any entity other than an element of the intelligence community who is 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 complaint or information to the Inspector General.

On page 77, beginning on line 17, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 77, strike line 19 and all that follows through page 78, line 2, and insert the following:

SEC. 142. OMBUDSMAN OF THE INTELLIGENCE COMMUNITY.

(a) OMBUDSMAN OF INTELLIGENCE COMMUNITY.—There is within the National Intelligence Authority an Ombudsman of the Intelligence Community who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Ombudsman of the Intelligence Community shall—

On page 78, beginning on line 6, strike ''the National Intelligence Authority'' and all that follows through ''National Intelligence Program,'' and insert ''any element of the intelligence community''.

On page 78, beginning on line 14, strike ''the Authority'' and all that follows through ''National Intelligence Program,'' and insert ''any element of the intelligence community''.

On page 78, beginning on line 20, strike ''the Authority'' and all that follows through ''National Intelligence Program,'' and insert ''any element of the intelligence community''.

On page 79, beginning on line 4, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 79, line 7, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 79, strike lines 18 through 25 and insert the following:

(B) The elements of the intelligence community, including the divisions, offices, programs, officers, and employees of such elements.

On page 80, line 8, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 80, beginning on line 14, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 80, beginning on line 20, strike ''the National Intelligence Authority'' and all that follows through ''National Intelligence Program,'' and insert ''any element of the intelligence community''.

On page 81, beginning on line 9, strike ''National Intelligence Authority'' and insert ''Intelligence Community''.

On page 204, strike lines 1 through 3 and insert the following:

SEC. 312. CONFORMING AMENDMENT RELATING TO CHIEF FINANCIAL OFFICER OF THE INTELLIGENCE COMMUNITY.

SA 3715. 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 46, strike lines 6 through 10.

SA 3716. 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 11, line 22, strike ''and'' at the end.

On page 11, between lines 22 and 23, insert the following:

(5) to such officials of State and local governments having homeland security responsibilities as the President shall direct; and

On page 11, line 23, strike ''(5)'' and insert ''(6)''.

SA 3717. 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 39, strike lines 8 through 11 and insert the following:

(c) PERSONNEL STRENGTH LEVEL.—Congress shall authorize the personnel strength level for the National Intelligence Reserve Corps for each fiscal year.

SA 3718. 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 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.

SA 3719. 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 7, line 23, insert ''tactical military'' before ''intelligence''.

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

(8) The term ''tactical military intelligence'' means foreign intelligence produced by an element of the Department of Defense and intended primarily to be responsive to the needs of military commanders in the field to maintain the readiness of operating forces for combat operations and to support the planning and conduct of combat operations.

On page 13, line 9, strike ''military intelligence'' and insert ''tactical military intelligence''.

On page 21, beginning on line 20, strike ''military intelligence'' and insert ''tactical military intelligence''.

On page 52, line 14, strike ''military intelligence'' and insert ''tactical military intelligence''.

SA 3720. 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 108, between lines 8 and 9, insert the following:

SEC. 153. NATIONAL INTELLIGENCE UNIVERSITY.

(a) NATIONAL INTELLIGENCE UNIVERSITY.—The National Intelligence Director shall establish within the intelligence community an institution of higher education to be known as the National Intelligence University.

(b) PURPOSE.—The purpose of the National Intelligence University shall be to provide such higher education and training in matters relating to intelligence for personnel of the elements of the intelligence community as the National Intelligence Director shall prescribe.

(c) COMPONENT INSTITUTIONS.—The National Intelligence University shall consist of such component institutions as the National Intelligence Director shall prescribe.

(d) AUTHORITY TO AWARD DEGREES.—Each component institution of the National Intelligence University shall be authorized, upon the recommendation of the faculty of such institution, to award a degree in such fields as the National Intelligence Director shall prescribe to graduates of such institution who have fulfilled the requirements for such a degree.

(e) MODEL.—(1) In establishing the National Intelligence University, the National Intelligence Director shall adapt for use in the National Intelligence University such mechanisms and requirements with respect to the National Defense University under chapter 108 of title 10, United States Code, as the Director considers appropriate.

(2) The Director shall consult with the Secretary of Defense regarding the adaptation to the National Intelligence University of mechanisms and requirements of the National Defense University under paragraph (1).

(f) REGULATIONS.—The National Intelligence Director shall prescribe regulations for purposes of carrying out this section.

(g) REPORT.—(1) Not later than one year after the date of the enactment of this Act, the National Intelligence Director shall submit to the congressional intelligence committees a report on the progress made as of the date of the report in the establishment of the National Intelligence University.

(2) The report shall include—

(A) a description of the progress made in the establishment of the University; and

(B) a proposal for such additional legislative actions, if any, as the Director considers appropriate to further the establishment of the University.

SA 3721. Mr. VOINOVICH (for himself and Mr. LUGAR) 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 ____—PRESIDENTIAL APPOINTMENTS IMPROVEMENT ACT OF 2004

SEC. ____01. SHORT TITLE.

This title may be cited as the ''Presidential Appointments Improvement Act of 2004''.

SEC. ____02. PURPOSES.

The purposes of this title are to—

(1) improve the Presidential appointment process without violating the spirit and letter of conflict of interest laws; and

(2) provide a newly elected President the ability to submit all nominations to the Senate for all Presidential appointments as expeditiously as possible after the President takes office.

SEC. ___03. PUBLIC FINANCIAL DISCLOSURE FOR JUDICIAL AND LEGISLATIVE PERSONNEL.

Title I of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended to read as follows:

"TITLE I—JUDICIAL AND LEGISLATIVE PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

"SEC. 101. PERSONS REQUIRED TO FILE.

''(a) Within 30 days of assuming the position of an officer or employee described in subsection (f), an individual shall file a report containing the information described in section 102(b) unless the individual has left another position described in subsection (f) or section 201(f) within 30 days prior to assuming such new position or has already filed a report under this title with respect to nomination for the new position or as a candidate for the position.

''(b)(1) Within 5 days of the transmittal by the President to the Senate of the nomination of an individual to a position in the legislative or judicial branch, appointment to which requires the advice and consent of the Senate, such individual shall file a report containing the information described in section 102(b). Such individual shall, not later than the date of the first hearing to consider the nomination of such individual, make current the report filed pursuant to this paragraph by filing the information required by section 102(a)(1)(A) with respect to income and honoraria received as of the date which occurs 5 days before the date of such hearing. Nothing in this Act shall prevent any congressional committee from requesting, as a condition of confirmation, any additional financial information from any Presidential nominee whose nomination has been referred to that committee.

''(2) An individual whom the President or the President-elect has publicly announced he intends to nominate to a position may file the report required by paragraph (1) at any time after that public announcement, but not later than is required under the first sentence of such paragraph.

''(c) Within 30 days of becoming a candidate as defined in section 301 of the Federal Campaign Act of 1971, in a calendar year for nomination or election to the office of Member of Congress, or on or before May 15 of that calendar year, whichever is later, but in no event later than 30 days before the election, and on or before May 15 of each successive year an individual continues to be a candidate, an individual other than an incumbent Member of Congress shall file a report containing the information described in section 102(b). Notwithstanding the preceding sentence, in any calendar year in which an individual continues to be a candidate for any office but all elections for such office relating to such candidacy were held in prior calendar years, such individual need not file a report unless he becomes a candidate for another vacancy in that office or another office during that year.

''(d) Any individual who is an officer or employee described in subsection (f) during any calendar year and performs the duties of his position or office for a period in excess of 60 days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in section 102(a).

''(e) Any individual who occupies a position described in subsection (f) shall, on or before the thirtieth day after termination of employment in such position, file a report containing the information described in section 102(a) covering the preceding calendar year if the report required by subsection (d) has not been filed and covering the portion of the calendar year in which such termination occurs up to the date the individual left such office or position, unless such individual has accepted employment in another position described in subsection (f) or section 201(f).

''(f) The officers and employees referred to in subsections (a), (d), and (e) are—

''(1) a Member of Congress as defined under section 109(10);

''(2) an officer or employee of the Congress as defined under section 109(11);

''(3) a judicial officer as defined under section 109(8); and

''(4) a judicial employee as defined under section 109(6).

''(g) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the supervising ethics office for each branch, but the total of such extensions shall not exceed 90 days.

''(h) The provisions of subsections (a), (b), and (e) shall not apply to an individual who, as determined by the congressional ethics committees or the Judicial Conference, is not reasonably expected to perform the duties of his office or position for more than 60 days in a calendar year, except that if such individual performs the duties of his office or position for more than 60 days in a calendar year—

''(1) the report required by subsections (a) and (b) shall be filed within 15 days of the sixtieth day, and

''(2) the report required by subsection (e) shall be filed as provided in such subsection.

''(i) The supervising ethics office for each branch may grant a publicly available request for a waiver of any reporting requirement under this section for an individual who is expected to perform or has performed the duties of his office or position less than 130 days in a calendar year, but only if the supervising ethics office determines that—

''(1) such individual is not a full-time employee of the Government,

''(2) such individual is able to provide services specially needed by the Government,

''(3) it is unlikely that the individual's outside employment or financial interests will create a conflict of interest, and

''(4) public financial disclosure by such individual is not necessary in the circumstances.

"SEC. 102. CONTENTS OF REPORTS.

''(a) Each report filed pursuant to section 101 (d) and (e) shall include a full and complete statement with respect to the following:

''(1)(A) The source, type, and amount or value of income (other than income referred to in subparagraph (B)) from any source (other than from current employment by the United States Government), and the source, date, and amount of honoraria from any source, received during the preceding calendar year, aggregating $200 or more in value and the source, date, and amount of payments made to charitable organizations in lieu of honoraria, and the reporting individual shall simultaneously file with the applicable supervising ethics office, on a confidential basis, a corresponding list of recipients of all such payments, together with the dates and amounts of such payments.

''(B) The source and type of income which consists of dividends, rents, interest, and capital gains, received during the preceding calendar year which exceeds $200 in amount or value, and an indication of which of the following categories the amount or value of such item of income is within:

''(i) Not more than $1,000.

''(ii) Greater than $1,000 but not more than $2,500.

''(iii) Greater than $2,500 but not more than $5,000.

''(iv) Greater than $5,000 but not more than $15,000.

''(v) Greater than $15,000 but not more than $50,000.

''(vi) Greater than $50,000 but not more than $100,000.

''(vii) Greater than $100,000 but not more than $1,000,000.

''(viii) Greater than $1,000,000 but not more than $5,000,000.

''(ix) Greater than $5,000,000.

''(2)(A) The identity of the source, a brief description, and the value of all gifts aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or $250, whichever is greater, received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of an individual need not be reported, and any gift with a fair market value of $100 or less, as adjusted at the same time and by the same percentage as the minimal value is adjusted, need not be aggregated for purposes of this subparagraph.

''(B) The identity of the source and a brief description (including a travel itinerary, dates, and nature of expenses provided) of reimbursements received from any source aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or $250, whichever is greater and received during the preceding calendar year.

''(C) In an unusual case, a gift need not be aggregated under subparagraph (A) if a publicly available request for a waiver is granted.

''(3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a spouse, or by a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse, or any deposits aggregating $5,000 or less in a personal savings account. For purposes of this paragraph, a personal savings account shall include any certificate of deposit or any other form of deposit in a bank, savings and loan association, credit union, or similar financial institution.

''(4) The identity and category of value of the total liabilities owed to any creditor other than a spouse, or a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse which exceed $10,000 at any time during the preceding calendar year, excluding—

''(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

''(B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it.

With respect to revolving charge accounts, only those with an outstanding liability which exceeds $10,000 as of the close of the preceding calendar year need be reported under this paragraph.

''(5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale or exchange during the preceding calendar year which exceeds $1,000—

''(A) in real property, other than property used solely as a personal residence of the reporting individual or his spouse; or

''(B) in stocks, bonds, commodities futures, and other forms of securities.

Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

''(6)(A) The identity of all positions held on or before the date of filing during the current calendar year (and, for the first report filed by an individual, during the 2-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. This subparagraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.

''(B) If any person, other than the United States Government, paid a nonelected reporting individual compensation in excess of $5,000 in any of the 2 calendar years prior to the calendar year during which the individual files his first report under this title, the individual shall include in the report—

''(i) the identity of each source of such compensation; and

''(ii) a brief description of the nature of the duties performed or services rendered by the reporting individual for each such source.

The preceding sentence shall not require any individual to include in such report any information which is considered confidential as a result of a privileged relationship, established by law, between such individual and any person nor shall it require an individual to report any information with respect to any person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless such individual was directly involved in the provision of such services.

''(7) A description of the date, parties to, and terms of any agreement or arrangement with respect to—

''(A) future employment;

''(B) a leave of absence during the period of the reporting individual's Government service;

''(C) continuation of payments by a former employer other than the United States Government; and

''(D) continuing participation in an employee welfare or benefit plan maintained by a former employer.

''(8) The category of the total cash value of any interest of the reporting individual in a qualified blind trust, unless the trust instrument was executed prior to July 24, 1995, and precludes the beneficiary from receiving information on the total cash value of any interest in the qualified blind trust.

''(b)(1) Each report filed pursuant to subsections (a), (b), and (c) of section 101 shall include a full and complete statement with respect to the information required by—

''(A) paragraph (1) of subsection (a) for the year of filing and the preceding calendar year,

''(B) paragraphs (3) and (4) of subsection (a) as of the date specified in the report but which is less than 31 days before the filing date, and

''(C) paragraphs (6) and (7) of subsection (a) as of the filing date but for periods described in such paragraphs.

''(2)(A) In lieu of filling out 1 or more schedules of a financial disclosure form, an individual may supply the required information in an alternative format, pursuant to either rules adopted by the supervising ethics office for the branch in which such individual serves or pursuant to a specific written determination by such office for a reporting individual.

''(B) In lieu of indicating the category of amount or value of any item contained in any report filed under this title, a reporting individual may indicate the exact dollar amount of such item.

''(c) In the case of any individual described in section 101(e), any reference to the preceding calendar year shall be considered also to include that part of the calendar year of filing up to the date of the termination of employment.

''(d)(1) The categories for reporting the amount or value of the items covered in paragraphs (3), (4), (5), and (8) of subsection (a) are—

''(A) not more than $15,000;

''(B) greater than $15,000 but not more than $50,000;

''(C) greater than $50,000 but not more than $100,000;

''(D) greater than $100,000 but not more than $250,000;

''(E) greater than $250,000 but not more than $500,000;

''(F) greater than $500,000 but not more than $1,000,000;

''(G) greater than $1,000,000 but not more than $5,000,000;

''(H) greater than $5,000,000 but not more than $25,000,000;

''(I) greater than $25,000,000 but not more than $50,000,000; and

''(J) greater than $50,000,000.

''(2) For the purposes of paragraph (3) of subsection (a) if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (A) the date of purchase and the purchase price of the interest in the real property, or (B) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value, instead of specifying a category of value pursuant to paragraph (1) of this subsection. If the current value of any other item required to be reported under paragraph (3) of subsection (a) is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value. In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.

''(e)(1) Except as provided in the last sentence of this paragraph, each report required by section 101 shall also contain information listed in paragraphs (1) through (5) of subsection (a) of this section respecting the spouse or dependent child of the reporting individual as follows:

''(A) The source of items of earned income earned by a spouse from any person which exceed $1,000 and the source and amount of any honoraria received by a spouse, except that, with respect to earned income (other than honoraria), if the spouse is self-employed in business or a profession, only the nature of such business or profession need be reported.

''(B) All information required to be reported in subsection (a)(1)(B) with respect to income derived by a spouse or dependent child from any asset held by the spouse or dependent child and reported pursuant to subsection (a)(3).

''(C) In the case of any gifts received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment and a brief description and the value of other gifts.

''(D) In the case of any reimbursements received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of each such reimbursement.

''(E) In the case of items described in paragraphs (3) through (5) of subsection (a), all information required to be reported under these paragraphs other than items (i) which the reporting individual certifies represent the spouse's or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of, (ii) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

''(F) For purposes of this section, categories with amounts or values greater than $1,000,000 set forth in sections 102 (a)(1)(B) and (d)(1) shall apply to the income, assets, or liabilities of spouses and dependent children only if the income, assets, or liabilities are held jointly with the reporting individual. All other income, assets, or liabilities of the spouse or dependent children required to be reported under this section in an amount or value greater than $1,000,000 shall be categorized only as an amount or value greater than $1,000,000.

Reports required by subsections (a), (b), and (c) of section 101 shall, with respect to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a), as specified in this paragraph.

''(2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

''(f)(1) Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a), (b), and (c) of this section with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.

''(2) A reporting individual need not report the holdings of or the source of income from any of the holdings of—

''(A) any qualified blind trust (as defined in paragraph (3));

''(B) a trust—

''(i) which was not created directly by such individual, his spouse, or any dependent child, and

''(ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge of; or

''(C) an entity described under the provisions of paragraph (8), but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the trust or other entity under subsection (a)(1)(B) of this section.

''(3) For purposes of this subsection, the term 'qualified blind trust' includes any

trust in which a reporting individual, his spouse, or any minor or dependent child has a beneficial interest in the principal or income, and which meets the following requirements:

''(A)(i) The trustee of the trust and any other entity designated in the trust instrument to perform fiduciary duties is a financial institution, an attorney, a certified public accountant, a broker, or an investment advisor who—

''(I) is independent of and not associated with any interested party so that the trustee or other person cannot be controlled or influenced in the administration of the trust by any interested party;

''(II) is not and has not been an employee of or affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party; and

''(III) is not a relative of any interested party.

''(ii) Any officer or employee of a trustee or other entity who is involved in the management or control of the trust—

''(I) is independent of and not associated with any interested party so that such officer or employee cannot be controlled or influenced in the administration of the trust by any interested party;

''(II) is not a partner of, or involved in any joint venture or other investment with, any interested party; and

''(III) is not a relative of any interested party.

''(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the supervising ethics office of the reporting individual.

''(C) The trust instrument which establishes the trust provides that—

''(i) except to the extent provided in subparagraph (B) of this paragraph, the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

''(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

''(iii) the trustee shall promptly notify the reporting individual and his supervising ethics office when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than $1,000;

''(iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

''(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by subsection (a)(1) of this section, but such report shall not identify any asset or holding;

''(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

''(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

''(D) The proposed trust instrument and the proposed trustee is approved by the reporting individual's supervising ethics office.

''(E) For purposes of this subsection, 'interested party' means a reporting individual, his spouse, and any minor or dependent child; 'broker' has the meaning set forth in section 3(a)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); and 'investment adviser' includes any investment adviser who, as determined under regulations prescribed by the supervising ethics office, is generally involved in his role as such an adviser in the management or control of trusts.

''(F) Any trust qualified by a supervising ethics office before January 1, 1991, shall continue to be governed by the law and regulations in effect immediately before such effective date.

''(4)(A) An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purposes of any applicable conflict of interest statutes, regulations, or rules of the Federal Government (including section 208 of title 18, United States Code), until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than $1,000.

''(B)(i) The provisions of subparagraph (A) shall not apply with respect to a trust created for the benefit of a reporting individual, or the spouse, dependent child, or minor child of such a person, if the supervising ethics office for such reporting individual finds that—

''(I) the assets placed in the trust consist of a well-diversified portfolio of readily marketable securities;

''(II) none of the assets consist of securities of entities having substantial activities in the area of the reporting individual's primary area of responsibility;

''(III) the trust instrument prohibits the trustee, notwithstanding the provisions of paragraph (3)(C) (iii) and (iv) of this subsection, from making public or informing any interested party of the sale of any securities;

''(IV) the trustee is given power of attorney, notwithstanding the provisions of paragraph (3)(C)(v) of this subsection, to prepare on behalf of any interested party the personal income tax returns and similar returns which may contain information relating to the trust; and

''(V) except as otherwise provided in this paragraph, the trust instrument provides (or in the case of a trust established prior to January 1, 1991, which by its terms does not permit amendment, the trustee, the reporting individual, and any other interested party agree in writing) that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A).

''(ii) In any instance covered by subparagraph (B) in which the reporting individual is an individual whose nomination is being considered by a congressional committee, the reporting individual shall inform the congressional committee considering his nomination before or during the period of such individual's confirmation hearing of his intention to comply with this paragraph.

''(5)(A) The reporting individual shall, within 30 days after a qualified blind trust is approved by his supervising ethics office, file with such office a copy of—

''(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

''(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under subsection (d) of this section.

This subparagraph shall not apply with respect to a trust meeting the requirements for being considered a qualified blind trust under paragraph (7) of this subsection.

''(B) The reporting individual shall, within 30 days of transferring an asset (other than cash) to a previously established qualified blind trust, notify his supervising ethics office of the identity of each such asset and the category of value of each asset as determined under subsection (d) of this section.

''(C) Within 30 days of the dissolution of a qualified blind trust, a reporting individual shall—

''(i) notify his supervising ethics office of such dissolution, and

''(ii) file with such office a copy of a list of the assets of the trust at the time of such dissolution and the category of value under subsection (d) of this section of each such asset.

''(D) Documents filed under subparagraphs (A), (B), and (C) of this paragraph and the lists provided by the trustee of assets placed in the trust by an interested party which have been sold shall be made available to the public in the same manner as a report is made available under section 105 and the provisions of that section shall apply with respect to such documents and lists.

''(E) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the reporting individual's supervising ethics office within 5 days of the date of the communication.

''(6)(A) A trustee of a qualified blind trust shall not knowingly and willfully, or negligently, (i) disclose any information to an interested party with respect to such trust that may not be disclosed under paragraph (3) of this subsection; (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) of this subsection or the trust agreement; or (iv) fail to file any document required by this subsection.

''(B) A reporting individual shall not knowingly and willfully, or negligently, (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under paragraph (3)(C) of this subsection or (ii) fail to file any document required by this subsection.

''(C)(i) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is

brought may assess against such individual a civil penalty in any amount not to exceed $10,000.

''(ii) The Attorney General may bring a civil action in any appropriate United States district court against any individual who negligently violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

''(7) Any trust may be considered to be a qualified blind trust if—

''(A) the trust instrument is amended to comply with the requirements of paragraph (3) or, in the case of a trust instrument which does not by its terms permit amendment, the trustee, the reporting individual, and any other interested party agree in writing that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A); except that in the case of any interested party who is a dependent child, a parent or guardian of such child may execute the agreement referred to in this subparagraph;

''(B) a copy of the trust instrument (except testamentary provisions) and a copy of the agreement referred to in subparagraph (A), and a list of the assets held by the trust at the time of approval by the supervising ethics office, including the category of value of each asset as determined under subsection (d) of this section, are filed with such office and made available to the public as provided under paragraph (5)(D) of this subsection; and

''(C) the supervising ethics office determines that approval of the trust arrangement as a qualified blind trust is in the particular case appropriate to assure compliance with applicable laws and regulations.

''(8) A reporting individual shall not be required to report the financial interests held by a widely held investment fund (whether such fund is a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund), if—

''(A)(i) the fund is publicly traded; or

''(ii) the assets of the fund are widely diversified; and

''(B) the reporting individual neither exercises control over nor has the ability to exercise control over the financial interests held by the fund.

''(g) Political campaign funds, including campaign receipts and expenditures, need not be included in any report filed pursuant to this title.

''(h) A report filed pursuant to subsection (a), (d), or (e) of section 101 need not contain the information described in subparagraphs (A), (B), and (C) of subsection (a)(2) with respect to gifts and reimbursements received in a period when the reporting individual was not an officer or employee of the Federal Government.

''(i) A reporting individual shall not be required under this title to report—

''(1) financial interests in or income derived from—

''(A) any retirement system under title 5, United States Code (including the Thrift Savings Plan under subchapter III of chapter 84 of such title); or

''(B) any other retirement system maintained by the United States for officers or employees of the United States, including the President, or for members of the uniformed services; or

''(2) benefits received under the Social Security Act (42 U.S.C. 301 et seq.).

''SEC. 103. FILING OF REPORTS.

''(a) Each supervising ethics office shall develop and make available forms for reporting the information required by this title.

''(b)(1) The reports required under this title shall be filed by a reporting individual with—

''(A)(i)(I) the Clerk of the House of Representatives, in the case of a Representative in Congress, a Delegate to Congress, the Resident Commissioner from Puerto Rico, an officer or employee of the Congress whose compensation is disbursed by the Chief Administrative Officer of the House of Representatives, an officer or employee of the Architect of the Capitol, the United States Botanic Garden, the Congressional Budget Office, the Government Printing Office, the Library of Congress, or the Copyright Royalty Tribunal (including any individual terminating service, under section 101(e), in any office or position referred to in this subclause), or an individual described in section 101(c) who is a candidate for nomination or election as a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico; and

''(II) the Secretary of the Senate, in the case of a Senator, an officer or employee of the Congress whose compensation is disbursed by the Secretary of the Senate, an officer or employee of the General Accounting Office, or the Office of the Attending Physician (including any individual terminating service, under section 101(e), in any office or position referred to in this subclause), or an individual described in section 101(c) who is a candidate for nomination or election as a Senator; and

''(ii) in the case of an officer or employee of the Congress as described under section 101(f)(2) who is employed by an agency or commission established in the legislative branch after November 30, 1989—

''(I) the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, as designated in the statute establishing such agency or commission; or

''(II) if such statute does not designate such committee, the Secretary of the Senate for agencies and commissions established in even numbered calendar years, and the Clerk of the House of Representatives for agencies and commissions established in odd numbered calendar years; and

''(B) the Judicial Conference with regard to a judicial officer or employee described under paragraphs (3) and (4) of section 101(f) (including individuals terminating service in such office or position under section 101(e) or immediately preceding service in such office or position).

''(2) The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such committee.

''(c) A copy of each report filed under this title by a Member or an individual who is a candidate for the office of Member shall be sent by the Clerk of the House of Representatives or Secretary of the Senate, as the case may be, to the appropriate State officer designated under section 312(a) of the Federal Election Campaign Act of 1971 of the State represented by the Member or in which the individual is a candidate, as the case may be, within the 30-day period beginning on the day the report is filed with the Clerk or Secretary.

''(d)(1) A copy of each report filed under this title with the Clerk of the House of Representatives shall be sent by the Clerk to the Committee on Standards of Official Conduct of the House of Representatives within the 7-day period beginning on the day the report is filed.

''(2) A copy of each report filed under this title with the Secretary of the Senate shall be sent by the Secretary to the Select Committee on Ethics of the Senate within the 7-day period beginning on the day the report is filed.

''(e) In carrying out their responsibilities under this title with respect to candidates for office, the Clerk of the House of Representatives and the Secretary of the Senate shall avail themselves of the assistance of the Federal Election Commission. The Commission shall make available to the Clerk and the Secretary on a regular basis a complete list of names and addresses of all candidates registered with the Commission, and shall cooperate and coordinate its candidate information and notification program with the Clerk and the Secretary to the greatest extent possible.

''SEC. 104. FAILURE TO FILE OR FILING FALSE REPORTS.

''(a) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant to section 102. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed $10,000.

''(b) Each congressional ethics committee or the Judicial Conference, as the case may be, shall refer to the Attorney General the name of any individual which such official or committee has reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported. Whenever the Judicial Conference refers a name to the Attorney General under this subsection, the Judicial Conference also shall notify the judicial council of the circuit in which the named individual serves of the referral.

''(c) A congressional ethics committee and the Judicial Conference, may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.

''(d)(1) Any individual who files a report required to be filed under this title more than 30 days after the later of—

''(A) the date such report is required to be filed pursuant to the provisions of this title and the rules and regulations promulgated thereunder; or

''(B) if a filing extension is granted to such individual under section 101(g), the last day of the filing extension period, shall, at the direction of and pursuant to regulations issued by the supervising ethics office, pay a filing fee of $200. All such fees shall be deposited in the miscellaneous receipts of the Treasury.

''(2) The supervising ethics office may waive the filing fee under this subsection in extraordinary circumstances.

''SEC. 105. CUSTODY OF AND PUBLIC ACCESS TO REPORTS.

''(a) The supervising ethics office of the judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall make available to the public, in accordance with subsection (b), each report filed under this title with such office or with the Clerk or the Secretary of the Senate.

''(b)(1) Except as provided in the second sentence of this subsection, the supervising ethics office in the judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall, within 30 days after any report is received under this title by such office or by the Clerk or the Secretary of the Senate, as the case may be, permit inspection of such report by or furnish a copy of such report to any person requesting such inspection or copy. With respect to any report required to be filed by May 15 of any year, such report shall be made available for

public inspection within 30 calendar days after May 15 of such year or within 30 days of the date of filing of such a report for which an extension is granted pursuant to section 101(g). The office, Clerk, or Secretary of the Senate, as the case may be, may require a reasonable fee to be paid in any amount which is found necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest.

''(2) Notwithstanding paragraph (1), a report may not be made available under this section to any person nor may any copy thereof be provided under this section to any person except upon a written application by such person stating—

''(A) that person's name, occupation, and address;

''(B) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and

''(C) that such person is aware of the prohibitions on the obtaining or use of the report.

Any such application shall be made available to the public throughout the period during which the report is made available to the public.

''(3)(A) This section does not require the immediate and unconditional availability of reports filed by an individual described in section 109 (6) or (8) of this Act if a finding is made by the Judicial Conference, in consultation with United States Marshal Service, that revealing personal and sensitive information could endanger that individual.

''(B) A report may be redacted pursuant to this paragraph only—

''(i) to the extent necessary to protect the individual who filed the report; and

''(ii) for as long as the danger to such individual exists.

''(C) The Administrative Office of the United States Courts shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate an annual report with respect to the operation of this paragraph including—

''(i) the total number of reports redacted pursuant to this paragraph;

''(ii) the total number of individuals whose reports have been redacted pursuant to this paragraph; and

''(iii) the types of threats against individuals whose reports are redacted, if appropriate.

''(D) The Judicial Conference, in consultation with the Department of Justice, shall issue regulations setting forth the circumstances under which redaction is appropriate under this paragraph and the procedures for redaction.

''(E) This paragraph shall expire on December 31, 2005, and apply to filings through calendar year 2005.

''(c)(1) It shall be unlawful for any person to obtain or use a report—

''(A) for any unlawful purpose;

''(B) for any commercial purpose, other than by news and communications media for dissemination to the general public;

''(C) for determining or establishing the credit rating of any individual; or

''(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

''(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1) of this subsection. The court in which such action is brought may assess against such person a penalty in any amount not to exceed $10,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

''(d) Any report filed with or transmitted to a supervising ethics office or to the Clerk of the House of Representatives or the Secretary of the Senate pursuant to this title shall be retained by such office or by the Clerk or the Secretary of the Senate, as the case may be. Such report shall be made available to the public for a period of 6 years after receipt of the report. After such 6-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 101(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 101(c) and was not subsequently elected, such reports shall be destroyed 1 year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President, Vice President, or as a Member of Congress, unless needed in an ongoing investigation.

''SEC. 106. REVIEW OF REPORTS.

''(a) Each congressional ethics committee and the Judicial Conference shall make provisions to ensure that each report filed under this title is reviewed within 60 days after the date of such filing.

''(b)(1) If after reviewing any report under subsection (a), a person designated by the congressional ethics committee or a person designated by the Judicial Conference, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such opinion on the report, and shall sign such report.

''(2) If a person designated by the congressional ethics committee, or a person designated by the Judicial Conference, after reviewing any report under subsection (a)—

''(A) believes additional information is required to be submitted, he shall notify the individual submitting such report what additional information is required and the time by which it must be submitted, or

''(B) is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, afford a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as to whether or not, on the basis of information submitted, the individual is in compliance with such laws and regulations.

''(3) If a person designated by a congressional ethics committee or a person designated by the Judicial Conference, reaches an opinion under paragraph (2)(B) that an individual is not in compliance with applicable laws and regulations, the official or committee shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in the opinion of such official or committee be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—

''(A) divestiture,

''(B) restitution,

''(C) the establishment of a blind trust,

''(D) request for an exemption under section 208(b) of title 18, United States Code, or

''(E) voluntary request for transfer, reassignment, limitation of duties, or resignation.

The use of any such steps shall be in accordance with such rules or regulations as the supervising ethics office may prescribe.

''(4) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by an individual in a position appointment to which requires the advice and consent of the Senate but removal authority resides in the President, the matter shall be referred to the President for appropriate action.

''(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by any other officer or employee, the matter shall be referred to the congressional ethics committee or the Judicial Conference, for appropriate action.

''(6) Each supervising ethics office may render advisory opinions interpreting this title within its respective jurisdiction. Notwithstanding any other provision of law, the individual to whom a public advisory opinion is rendered in accordance with this paragraph, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any penalty or sanction provided by this title.

''SEC. 107. CONFIDENTIAL REPORTS AND OTHER ADDITIONAL REQUIREMENTS.

''(a)(1) Each supervising ethics office may require officers and employees under its jurisdiction (including special Government employees as defined in section 202 of title 18, United States Code) to file confidential financial disclosure reports, in such form as the supervising ethics office may prescribe. The information required to be reported under this subsection by the officers and employees of the legislative or judicial branch shall be set forth in rules or regulations prescribed by the supervising ethics office, and may be less extensive than otherwise required by this title, or more extensive when determined by the supervising ethics office to be necessary and appropriate in light of sections 202 through 209 of title 18, United States Code, regulations promulgated thereunder, official codes of conduct or the authorized activities of such officers or employees. Any individual required to file a report pursuant to section 101 shall not be required to file a confidential report pursuant to this subsection, except with respect to information which is more extensive than information otherwise required by this title. Subsections (a), (b), and (d) of section 105 shall not apply with respect to any such report.

''(2) Any information required to be provided by an individual under this subsection shall be confidential and shall not be disclosed to the public.

''(3) Nothing in this subsection exempts any individual otherwise covered by the requirement to file a public financial disclosure report under this title from such requirement.

''(b) The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest. Such provisions of this title shall not supersede the requirements of section 7342 of title 5, United States Code.

''(c) Nothing in this Act requiring reporting of information shall be deemed to authorize—

''(1) the receipt of income, gifts, or reimbursements;

''(2) the holding of assets, liabilities, or positions; or

''(3) the participation in transactions that are prohibited by law, rule, or regulation.

"SEC. 108. AUTHORITY OF COMPTROLLER GENERAL.

''(a) The Comptroller General shall have access to financial disclosure reports filed under this title for the purposes of carrying out his statutory responsibilities.

''(b) Not later than December 31, 1992, and regularly thereafter, the Comptroller General shall conduct a study to determine whether the provisions of this title are being carried out effectively.

"SEC. 109. DEFINITIONS.

''For the purposes of this title, the term—

''(1) 'congressional ethics committees' means the Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives;

''(2) 'dependent child' means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who—

''(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

''(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1986 (26 U.S.C. 152);

''(3) 'gift' means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

''(A) bequest and other forms of inheritance;

''(B) suitable mementos of a function honoring the reporting individual;

''(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

''(D) food and beverages which are not consumed in connection with a gift of overnight lodging;

''(E) communications to the offices of a reporting individual, including subscriptions to newspapers and periodicals; or

''(F) consumable products provided by home-State businesses to the offices of a reporting individual who is an elected official, if those products are intended for consumption by persons other than such reporting individual;

''(4) 'honoraria' has the meaning given such term in section 505 of this Act;

''(5) 'income' means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (and net income if the individual elects to include it); gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

''(6) 'judicial employee' means any employee of the judicial branch of the Government, of the United States Sentencing Commission, of the Tax Court, of the Court of Federal Claims, of the Court of Appeals for Veterans Claims, or of the United States Court of Appeals for the Armed Forces, who is not a judicial officer and who is authorized to perform adjudicatory functions with respect to proceedings in the judicial branch, or who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule;

''(7) 'Judicial Conference' means the Judicial Conference of the United States;

''(8) 'judicial officer' means the Chief Justice of the United States, the Associate Justices of the Supreme Court, and the judges of the United States courts of appeals, United States district courts, including the district courts in Guam, the Northern Mariana Islands, and the Virgin Islands, Court of Appeals for the Federal Circuit, Court of International Trade, Tax Court, Court of Federal Claims, Court of Appeals for Veterans Claims, United States Court of Appeals for the Armed Forces, and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior;

''(9) 'legislative branch' includes—

''(A) the Architect of the Capitol;

''(B) the Botanic Gardens;

''(C) the Congressional Budget Office;

''(D) the General Accounting Office;

''(E) the Government Printing Office;

''(F) the Library of Congress;

''(G) the United States Capitol Police;

''(H) the Office of Compliance; and

''(I) any other agency, entity, office, or commission established in the legislative branch;

''(10) 'Member of Congress' means a United States Senator, a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico;

''(11) 'officer or employee of the Congress' means—

''(A) any individual described under subparagraph (B), other than a Member of Congress or the Vice President, whose compensation is disbursed by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives;

''(B)(i) each officer or employee of the legislative branch who, for at least 60 days, occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule; and

''(ii) at least 1 principal assistant designated for purposes of this paragraph by each Member who does not have an employee who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule;

''(12) 'personal hospitality of any individual' means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;

''(13) 'reimbursement' means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

''(A) provided by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

''(B) required to be reported by the reporting individual under section 7342 of title 5, United States Code; or

''(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

''(14) 'relative' means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancee of the reporting individual;

''(15) 'supervising ethics office' means—

''(A) the Select Committee on Ethics of the Senate, for Senators, officers and employees of the Senate, and other officers, or employees of the legislative branch required to file financial disclosure reports with the Secretary of the Senate pursuant to section 103(h) of this title;

''(B) the Committee on Standards of Official Conduct of the House of Representatives, for Members, officers, and employees of the House of Representatives and other officers or employees of the legislative branch required to file financial disclosure reports with the Clerk of the House of Representatives pursuant to section 103(h) of this title; and

''(C) the Judicial Conference for judicial officers and judicial employees; and

''(16) 'value' means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual.

"SEC. 110. NOTICE OF ACTIONS TAKEN TO COMPLY WITH ETHICS AGREEMENTS.

''(a) In any case in which an individual agrees with a Senate confirmation committee, a congressional ethics committee, or the Judicial Conference, to take any action to comply with this Act or any other law or regulation governing conflicts of interest of, or establishing standards of conduct applicable with respect to, officers or employees of the Government, that individual shall notify in writing the appropriate committee of the Senate, the congressional ethics committee, or the Judicial Conference, as the case may be, of any action taken by the individual pursuant to that agreement. Such notification shall be made not later than the date specified in the agreement by which action by the individual must be taken, or not later than 3 months after the date of the agreement, if no date for action is so specified.

''(b) If an agreement described in subsection (a) requires that the individual recuse himself or herself from particular categories of agency or other official action, the individual shall reduce to writing those subjects regarding which the recusal agreement will apply and the process by which it will be determined whether the individual must recuse himself or herself in a specific instance. An individual shall be considered to have complied with the requirements of subsection (a) with respect to such recusal agreement if such individual files a copy of the document setting forth the information described in the preceding sentence with the appropriate supervising ethics office within the time prescribed in the last sentence of subsection (a).

"SEC. 111. ADMINISTRATION OF PROVISIONS.

''The provisions of this title shall be administered by—

''(1) the Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives, as appropriate, with regard to officers and employees described in paragraphs (1) and (2) of section 101(f); and

''(2) the Judicial Conference in the case of an officer or employee described in paragraphs (3) and (4) of section 101(f). The Judicial Conference may delegate any authority it has under this title to an ethics committee established by the Judicial Conference.''.

SEC. ____04. PUBLIC FINANCIAL DISCLOSURE FOR THE EXECUTIVE BRANCH.

The Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by inserting after title I the following:

"TITLE II—EXECUTIVE PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

"SEC. 201. PERSONS REQUIRED TO FILE.

''(a) Within 30 days of assuming the position of an officer or employee described in

subsection (f), an individual shall file a report containing the information described in section 202(b) unless the individual has left another position described in subsection (f) of this section or section 101(f) of this Act within 30 days prior to assuming such new position or has already filed a report under this title with respect to nomination for the new position or as a candidate for the position.

''(b)(1) Within 5 days of the transmittal by the President to the Senate of the nomination of an individual (other than an individual nominated for appointment to a position as a Foreign Service Officer or a grade or rank in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code, is O–6 or below) to a position in the executive branch, appointment to which requires the advice and consent of the Senate, such individual shall file a report containing the information described in section 202(b). Such individual shall, not later than the date of the first hearing to consider the nomination of such individual, make current the report filed pursuant to this paragraph by filing the information required by section 202(a)(1)(A) with respect to income and honoraria received as of the date which occurs 5 days before the date of such hearing. Nothing in this Act shall prevent any congressional committee from requesting, as a condition of confirmation, any additional financial information from any Presidential nominee whose nomination has been referred to that committee.

''(2) An individual whom the President or the President-elect has publicly announced he intends to nominate to a position may file the report required by paragraph (1) at any time after that public announcement, but not later than is required under the first sentence of such paragraph.

''(c) Within 30 days of becoming a candidate as defined in section 301 of the Federal Campaign Act of 1971, in a calendar year for nomination or election to the office of President or Vice President or on or before May 15 of that calendar year, whichever is later, but in no event later than 30 days before the election, and on or before May 15 of each successive year an individual continues to be a candidate, an individual other than an incumbent President or Vice President shall file a report containing the information described in section 202(b). Notwithstanding the preceding sentence, in any calendar year in which an individual continues to be a candidate for any office but all elections for such office relating to such candidacy were held in prior calendar years, such individual need not file a report unless he becomes a candidate for another vacancy in that office or another office during that year.

''(d) Any individual who is an officer or employee described in subsection (f) during any calendar year and performs the duties of his position or office for a period in excess of 60 days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in section 202(a).

''(e) Any individual who occupies a position described in subsection (f) shall, on or before the thirtieth day after termination of employment in such position, file a report containing the information described in section 202(a) covering the preceding calendar year if the report required by subsection (d) has not been filed and covering the portion of the calendar year in which such termination occurs up to the date the individual left such office or position, unless such individual has accepted employment in or takes the oath of office for another position described in subsection (f) or section 101(f).

''(f) The officers and employees referred to in subsections (a), (d), and (e) are—

''(1) the President;

''(2) the Vice President;

''(3) each officer or employee in the executive branch, including a special Government employee as defined in section 202 of title 18, United States Code, who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule; each member of a uniformed service whose pay grade is at or in excess of O–7 under section 201 of title 37, United States Code; and each officer or employee in any other position determined by the Director of the Office of Government Ethics to be of equal classification;

''(4) each employee appointed pursuant to section 3105 of title 5, United States Code;

''(5) any employee not described in paragraph (3) who is in a position in the executive branch which is excepted from the competitive service by reason of being of a confidential or policymaking character, except that the Director of the Office of Government Ethics may, by regulation, exclude from the application of this paragraph any individual, or group of individuals, who are in such positions, but only in cases in which the Director determines such exclusion would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government;

''(6) the Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the United States Postal Service, each officer or employee of the United States Postal Service who is designated as a member of the Postal Career Executive Service (PCES I or II), and each officer or employee of the Postal Rate Commission who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule;

''(7) the Director of the Office of Government Ethics and each designated agency ethics official; and

''(8) any civilian employee not described in paragraph (3), employed in the Executive Office of the President (other than a special Government employee) who holds a commission of appointment from the President.

''(g)(1) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the Office of Government Ethics, but the total of such extensions shall not exceed 90 days.

''(2)(A) In the case of an individual who is serving in the Armed Forces, or serving in support of the Armed Forces, in an area while that area is designated by the President by Executive order as a combat zone for purposes of section 112 of the Internal Revenue Code of 1986, the date for the filing of any report shall be extended so that the date is 180 days after the later of—

''(i) the last day of the individual's service in such area during such designated period; or

''(ii) the last day of the individual's hospitalization as a result of injury received or disease contracted while serving in such area.

''(B) The Office of Government Ethics, in consultation with the Secretary of Defense, may prescribe procedures under this paragraph.

''(h) The provisions of subsections (a), (b), and (e) shall not apply to an individual who, as determined by the designated agency ethics official or Secretary concerned (or in the case of a Presidential appointee under subsection (b), the Director of the Office of Government Ethics), is not reasonably expected to perform the duties of his office or position for more than 60 days in a calendar year, except that if such individual performs the duties of his office or position for more than 60 days in a calendar year—

''(1) the report required by subsections (a) and (b) shall be filed within 15 days of the sixtieth day, and

''(2) the report required by subsection (e) shall be filed as provided in such subsection.

''(i) The Director of the Office of Government Ethics may grant a publicly available request for a waiver of any reporting requirement under this section for an individual who is expected to perform or has performed the duties of his office or position less than 130 days in a calendar year, but only if the Director determines that—

''(1) such individual is not a full-time employee of the Government,

''(2) such individual is able to provide services specially needed by the Government,

''(3) it is unlikely that the individual's outside employment or financial interests will create a conflict of interest, and

''(4) public financial disclosure by such individual is not necessary in the circumstances.

''SEC. 202. CONTENTS OF REPORTS.

''(a) Each report filed pursuant to section 201 (d) and (e) shall include a full and complete statement with respect to the following:

''(1)(A) The source, description, and category of amount of income (other than income referred to in subparagraph (B)) from any source (other than from current employment by the United States Government), received during the preceding calendar year, aggregating more than $500 in value, except that honoraria received during Government service by an officer or employee shall include, in addition to the source, the exact amount and the date it was received.

''(B) The source, description, and category of amount or value of investment income which may include but is not limited to dividends, rents, interest, and capital gains, received during the preceding calendar year which exceeds $500 in amount or value.

''(C) The categories for reporting the amount or value for income covered in subparagraphs (A) and (B) of this paragraph are—

''(i) greater than $500 but not more than $20,000;

''(ii) greater than $20,000 but not more than $100,000;

''(iii) greater than $100,000 but not more than $1,000,000;

''(iv) greater than $1,000,000 but not more than $2,500,000; and

''(v) greater than $2,500,000.

''(2)(A) The identity of the source, a brief description, and the value of all gifts aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or $250, whichever is greater, received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of an individual need not be reported, and any gift with a fair market value of $100 or less, as adjusted at the same time and by the same percentage as the minimal value is adjusted, need not be aggregated for purposes of this subparagraph.

''(B) The identity of the source and a brief description (including dates of travel and nature of expenses provided) of reimbursements received from any source aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or $250, whichever is greater and received during the preceding calendar year.

''(C) In an unusual case, a gift need not be aggregated under subparagraph (A) if a publicly available request for a waiver is granted.

''(3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $5,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a spouse, or by a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse, or any deposit accounts aggregating $100,000 or less in a financial institution, or any Federal Government securities aggregating $100,000 or less.

''(4) The identity and category of value of the total liabilities owed to any creditor other than a spouse, or a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse which exceed $20,000 at any time during the preceding calendar year, excluding—

''(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

''(B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it.

With respect to revolving charge accounts, only those with an outstanding liability which exceeds $20,000 as of the close of the preceding calendar year need be reported under this paragraph.

''(5) Except as provided in this paragraph, a brief description of any real property, other than property used solely as a personal residence of the reporting individual or his spouse, and stocks, bonds, commodities futures, and other forms of securities, if—

''(A) purchased, sold, or exchanged during the preceding calendar year;

''(B) the value of the transaction exceeded $5,000; and

''(C) the property or security is not already required to be reported as a source of income pursuant to paragraph (1)(B) or as an asset pursuant to paragraph (3) of this section. Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

''(6)(A) The identity of all positions held on or before the date of filing during the current calendar year (and, for the first report filed by an individual, during the 1-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. This subparagraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.

''(B) If any person, other than a person reported as a source of income under paragraph (1)(A) or the United States Government, paid a nonelected reporting individual compensation in excess of $25,000 in the calendar year prior to or the calendar year in which the individual files his first report under this title, the individual shall include in the report—

''(i) the identity of each source of such compensation; and

''(ii) a brief description of the nature of the duties performed or services rendered by the reporting individual for each such source.

''(C) Subparagraph (B) shall not require any individual to include in such report any information—

''(i) with respect to a person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless the individual was directly involved in the provision of such services;

''(ii) that is protected by a court order or is under seal; or

''(iii) that is considered confidential as a result of—

''(I) a privileged relationship established by a confidentiality agreement entered into at the time the person retained the services of the individual;

''(II) a grand jury proceeding or a non-public investigation, if there are no public filings, statements, appearances, or reports that identify the person for whom such individual is providing services; or

''(III) an applicable rule of professional conduct that prohibits disclosure of the information and that can be enforced by a professional licensing body.

''(7) A description of parties to and terms of any agreement or arrangement with respect to (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer. The description of any formal agreement for future employment shall include the date of that agreement.

''(8) The category of the total cash value of any interest of the reporting individual in a qualified blind trust.

''(b)(1) Each report filed pursuant to subsections (a), (b), and (c) of section 201 shall include a full and complete statement with respect to the information required by—

''(A) paragraphs (1) and (6) of subsection (a) for the year of filing and the preceding calendar year,

''(B) paragraphs (3) and (4) of subsection (a) as of the date specified in the report but which is less than 31 days before the filing date, and

''(C) paragraph (7) of subsection (a) as of the filing date but for periods described in such paragraph.

''(2)(A) In lieu of filling out 1 or more schedules of a financial disclosure form, an individual may supply the required information in an alternative format, pursuant to either rules adopted by the Office of Government Ethics or pursuant to a specific written determination by the Director for a reporting individual.

''(B) In lieu of indicating the category of amount or value of any item contained in any report filed under this title, a reporting individual may indicate the exact dollar amount of such item.

''(c) In the case of any individual referred to in section 201(e), any reference to the preceding calendar year shall be considered also to include that part of the calendar year of filing up to the date of the termination of employment.

''(d)(1) The categories for reporting the amount or value of the items covered in paragraph (3) of subsection (a) are—

''(A) greater than $5,000 but not more than $15,000;

''(B) greater than $15,000 but not more than $100,000;

''(C) greater than $100,000 but not more than $1,000,000;

''(D) greater than $1,000,000 but not more than $2,500,000; and

''(E) greater than $2,500,000.

''(2) For the purposes of paragraph (3) of subsection (a) if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (A) the date of purchase and the purchase price of the interest in the real property, or (B) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value, instead of specifying a category of value pursuant to paragraph (1) of this subsection. If the current value of any other item required to be reported under paragraph (3) of subsection (a) is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value. In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.

''(3) The categories for reporting the amount or value of the items covered in paragraphs (4) and (8) of subsection (a) are—

''(A) greater than $20,000 but not more than $100,000;

''(B) greater than $100,000 but not more than $500,000;

''(C) greater than $500,000 but not more than $1,000,000; and

''(D) greater than $1,000,000.

''(e)(1) Except as provided in the last sentence of this paragraph, each report required by section 201 shall also contain information listed in paragraphs (1) through (5) of subsection (a) of this section respecting the spouse or dependent child of the reporting individual as follows:

''(A) The sources of earned income earned by a spouse, including honoraria, which exceed $500, except that, with respect to earned income, if the spouse is self-employed in business or a profession, only the nature of such business or profession need be reported.

''(B) All information required to be reported in subsection (a)(1)(B) with respect to investment income derived by a spouse or dependent child.

''(C) In the case of any gifts received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment and a brief description and the value of other gifts.

''(D) In the case of any reimbursements received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of each such reimbursement.

''(E) In the case of items described in paragraphs (3) through (5) of subsection (a), all information required to be reported under these paragraphs other than items which the reporting individual certifies (i) represent the spouse's or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of, (ii) are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) are ones from which he neither derives, nor expects to derive, any financial or economic benefit.

''(F) Reports required by subsections (a), (b), and (c) of section 201 shall, with respect

to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a), as specified in this paragraph.

''(2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

''(f)(1) Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a), (b), and (c) of this section with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.

''(2) A reporting individual need not report the holdings of or the source of income from any of the holdings of—

''(A) any qualified blind trust (as defined in paragraph (3));

''(B) a trust—

''(i) which was not created directly by such individual, his spouse, or any dependent child, and

''(ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge of; or

''(C) an entity described under the provisions of paragraph (8), but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the trust or other entity under subsection (a)(1)(B) of this section.

''(3) For purposes of this subsection, the term 'qualified blind trust' includes any trust in which a reporting individual, his spouse, or any minor or dependent child has a beneficial interest in the principal or income, and which meets the following requirements:

''(A)(i) The trustee of the trust and any other entity designated in the trust instrument to perform fiduciary duties is a financial institution, an attorney, a certified public accountant, a broker, or an investment advisor who—

''(I) is independent of and not affiliated with any interested party so that the trustee or other person cannot be controlled or influenced in the administration of the trust by any interested party;

''(II) is not and has not been an employee of or affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party; and

''(III) is not a relative of any interested party.

''(ii) Any officer or employee of a trustee or other entity who is involved in the management or control of the trust—

''(I) is independent of and not affiliated with any interested party so that such officer or employee cannot be controlled or influenced in the administration of the trust by any interested party;

''(II) is not a partner of, or involved in any joint venture or other investment with, any interested party; and

''(III) is not a relative of any interested party.

''(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the Office of Government Ethics.

''(C) The trust instrument which establishes the trust provides that—

''(i) except to the extent provided in subparagraph (B) of this paragraph, the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

''(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

''(iii) the trustee shall promptly notify the reporting individual and the Office of Government Ethics when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than $1,000;

''(iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

''(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by subsection (a)(1) of this section, but such report shall not identify any asset or holding;

''(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

''(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

''(D) The proposed trust instrument and the proposed trustee is approved by the Office of Government Ethics.

''(E) For purposes of this subsection, 'interested party' means a reporting individual, his spouse, and any minor or dependent child; 'broker' has the meaning set forth in section 3(a)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); and 'investment adviser' includes any investment adviser who, as determined under regulations prescribed by the supervising ethics office, is generally involved in his role as such an adviser in the management or control of trusts.

''(4)(A) An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purposes of any applicable conflict of interest statutes, regulations, or rules of the Federal Government (including section 208 of title 18, United States Code), until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than $1,000.

''(B)(i) The provisions of subparagraph (A) shall not apply with respect to a trust created for the benefit of a reporting individual, or the spouse, dependent child, or minor child of such a person, if the Office of Government Ethics finds that—

''(I) the assets placed in the trust consist of a widely-diversified portfolio of readily marketable securities;

''(II) none of the assets consist of securities of entities having substantial activities in the area of the reporting individual's primary area of responsibility;

''(III) the trust instrument prohibits the trustee, notwithstanding the provisions of paragraph (3)(C) (iii) and (iv) of this subsection, from making public or informing any interested party of the sale of any securities;

''(IV) the trustee is given power of attorney, notwithstanding the provisions of paragraph (3)(C)(v) of this subsection, to prepare on behalf of any interested party the personal income tax returns and similar returns which may contain information relating to the trust; and

''(V) except as otherwise provided in this paragraph, the trust instrument provides (or in the case of a trust which by its terms does not permit amendment, the trustee, the reporting individual, and any other interested party agree in writing) that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A).

''(ii) In any instance covered by subparagraph (B) in which the reporting individual is an individual whose nomination is being considered by a congressional committee, the reporting individual shall inform the congressional committee considering his nomination before or during the period of such individual's confirmation hearing of his intention to comply with this paragraph.

''(5)(A) The reporting individual shall, within 30 days after a qualified blind trust is approved by the Office of Government Ethics, file with such office a copy of—

''(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

''(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under subsection (d) of this section.

This subparagraph shall not apply with respect to a trust meeting the requirements for being considered a qualified blind trust under paragraph (7) of this subsection.

''(B) The reporting individual shall, within 30 days of transferring an asset (other than cash) to a previously established qualified blind trust, notify the Office of Government Ethics of the identity of each such asset and the category of value of each asset as determined under subsection (d) of this section.

''(C) Within 30 days of the dissolution of a qualified blind trust, a reporting individual shall—

''(i) notify the Office of Government Ethics of such dissolution; and

''(ii) file with such office and his Designated Agency Ethics Official a copy of a list of the assets of the trust at the time of such dissolution and the category of value under subsection (d) of this section of each such asset.

''(D) Documents filed under subparagraphs (A), (B), and (C) of this paragraph and the lists provided by the trustee of assets placed in the trust by an interested party which have been sold shall be made available to the public in the same manner as a report is made available under section 205 and the provisions of that section shall apply with respect to such documents and lists.

''(E) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the Office of Government Ethics within 5 days of the date of the communication.

''(6)(A) A trustee of a qualified blind trust shall not knowingly and willfully, or negligently, (i) disclose any information to an interested party with respect to such trust that may not be disclosed under paragraph (3) of this subsection; (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) of this subsection or the trust agreement; or (iv) fail to file any document required by this subsection.

''(B) A reporting individual shall not knowingly and willfully, or negligently, (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under paragraph (3)(C) of this subsection or (ii) fail to file any document required by this subsection.

''(C)(i) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $11,000.

''(ii) The Attorney General may bring a civil action in any appropriate United States district court against any individual who negligently violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,500.

''(7) Any trust may be considered to be a qualified blind trust if—

''(A) the trust instrument is amended to comply with the requirements of paragraph (3) or, in the case of a trust instrument which does not by its terms permit amendment, the trustee, the reporting individual, and any other interested party agree in writing that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A); except that in the case of any interested party who is a dependent child, a parent or guardian of such child may execute the agreement referred to in this subparagraph;

''(B) a copy of the trust instrument (except testamentary provisions) and a copy of the agreement referred to in subparagraph (A), and a list of the assets held by the trust at the time of approval by the Office of Government Ethics, including the category of value of each asset as determined under subsection (d) of this section, are filed with such office and made available to the public as provided under paragraph (5)(D) of this subsection; and

''(C) the Director of the Office of Government Ethics determines that approval of the trust arrangement as a qualified blind trust is in the particular case appropriate to assure compliance with applicable laws and regulations.

''(8) A reporting individual shall not be required to report the financial interests held by a widely held investment fund (whether such fund is a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund), if—

''(A)(i) the fund is publicly traded; or

''(ii) the assets of the fund are widely diversified; and

''(B) the reporting individual neither exercises control over nor has the ability to exercise control over the financial interests held by the fund.

''(9)(A) A reporting individual described in subsection (a), (b), or (c) of section 201 shall not be required to report the assets or sources of income of any publicly available investment fund if—

''(i) the identity of such assets and sources of income is not provided to investors;

''(ii) the reporting individual neither exercises control over nor has the ability to exercise control over the fund; and

''(iii) the reporting individual—

''(I) does not otherwise have knowledge of the individual assets of the fund and provides written certification by the fund manager that individual assets of the fund are not disclosed to investors; or

''(II) has executed a written ethics agreement that contains a commitment to divest the interest in the investment fund no later than 90 days after the date of the agreement.

The reporting individual shall file the written certification by the fund manager as an attachment to the report filed pursuant to section 201.

''(B)(i) The provisions of subparagraph (A) shall apply to an individual described in subsection (d) or (e) of section 201 if—

''(I) the interest in the trust or investment fund is acquired involuntarily during the period to be covered by the report, such as through marriage or inheritance, and

''(II) for an individual described in subsection (d), the individual executes a written ethics agreement containing a commitment to divest the interest no later than 90 days after the date on which the report is due.

''(ii) An agreement described under clause (i)(II) shall be attached to the public financial disclosure which would otherwise include a listing of the holdings or sources of income from this trust or investment fund.

''(iii) Failure to divest within the time specified or within an extension period granted by the Director of the Office of Government Ethics for good cause shown shall result in an immediate requirement to report as specified in paragraph (1) of this subsection.

''(g) Political campaign funds, including campaign receipts and expenditures, need not be included in any report filed pursuant to this title.

''(h) A report filed pursuant to subsection (a), (d), or (e) of section 201 need not contain the information described in subparagraphs (A), (B), and (C) of subsection (a)(2) with respect to gifts and reimbursements received in a period when the reporting individual was not an officer or employee of the Federal Government.

''(i) A reporting individual shall not be required under this title to report—

''(1) financial interests in or income derived from—

''(A) any retirement system under title 5, United States Code (including the Thrift Savings Plan under subchapter III of chapter 84 of such title); or

''(B) any other retirement system maintained by the United States for officers or employees of the United States, including the President, or for members of the uniformed services; or

''(2) benefits received under the Social Security Act (42 U.S.C. 301 et seq.).

''(j)(1) Every month each designated agency ethics officer shall submit to the Office of Government Ethics notification of any waiver of criminal conflict of interest laws granted to any individual in the preceding month with respect to a filing under this title that is not confidential.

''(2) Every month the Office of Government Ethics shall make publicly available on the Internet—

''(A) all notifications of waivers submitted under paragraph (1) in the preceding month; and

''(B) notification of all waivers granted by the Office of Government Ethics in the preceding month.

''(k) A full copy of any waiver of criminal conflict of interest laws granted shall be included with any filing required under this title with respect to the year in which the waiver is granted.

''(l) The Office of Government Ethics shall provide upon request any waiver on file for which notice has been published.

''SEC. 203. FILING OF REPORTS.

''(a) Except as otherwise provided in this section, the reports required under this title shall be filed by the reporting individual with the designated agency ethics official at the agency by which he is employed (or in the case of an individual described in section 201(e), was employed) or in which he will serve. The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such official.

''(b) The President, the Vice President and independent counsel and persons appointed by independent counsel under chapter 40 of title 28, United States Code shall file reports required under this title with the Director of the Office of Government Ethics.

''(c) Copies of the reports required to be filed under this title by the Postmaster General, the Deputy Postmaster General, the Governors of the Board of Governors of the United States Postal Service, designated agency ethics officials, employees described in section 105(a)(2) (A) or (B), 106(a)(1) (A) or (B), or 107 (a)(1)(A) or (b)(1)(A)(i), of title 3, United States Code, candidates for the office of President or Vice President and officers and employees in (and nominees to) offices or positions within the executive branch which require confirmation by the Senate shall be transmitted to the Director of the Office of Government Ethics. The Director shall forward a copy of the report of each nominee to the congressional committee considering the nomination.

''(d) Reports required to be filed under this title by the Director of the Office of Government Ethics shall be filed in the Office of Government Ethics and, immediately after being filed, shall be made available to the public in accordance with this title.

''(e) Each individual identified in section 201(c) who is a candidate for nomination or election to the Office of President or Vice President shall file the reports required by this title with the Federal Election Commission.

''(f) Reports required of members of the uniformed services shall be filed with the Secretary concerned.

''(g) The Office of Government Ethics shall develop and make available forms for reporting the information required by this title.

''SEC. 204. FAILURE TO FILE OR FILING FALSE REPORTS.

''(a) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant to section 202. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed $11,000 or order the individual to file or report any information required by section 202 or both.

''(b) The head of each agency, each Secretary concerned, or the Director of the Office of Government Ethics, as the case may be, shall refer to the Attorney General the name of any individual which such official

has reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported.

''(c) The President, the Vice President, the Secretary concerned, or the head of each agency may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.

''(d)(1) Any individual who files a report required to be filed under this title more than 30 days after the later of—

''(A) the date such report is required to be filed pursuant to the provisions of this title and the rules and regulations promulgated thereunder; or

''(B) if a filing extension is granted to such individual under section 201(g), the last day of the filing extension period,

shall, at the direction of and pursuant to regulations issued by the Office of Government Ethics, pay a filing fee of $500. All such fees shall be deposited in the miscellaneous receipts of the Treasury. The authority under this paragraph to direct the payment of a filing fee may be delegated by the Office of Government Ethics to other agencies in the executive branch.

''(2) The Office of Government Ethics may waive the filing fee under this subsection for good cause shown.

''SEC. 205. CUSTODY OF AND PUBLIC ACCESS TO REPORTS.

''(a) Each agency and the Office of Government Ethics shall make available to the public, in accordance with subsection (b), each report filed under this title with such agency or Office except that this section does not require public availability of a report filed by any individual in the Central Intelligence Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, or the National Security Agency, or any individual engaged in intelligence activities in any agency of the United States, if the President finds or has found that, due to the nature of the office or position occupied by such individual, public disclosure of such report would, by revealing the identity of the individual or other sensitive information, compromise the national interest of the United States; and such individuals may be authorized, notwithstanding section 204(a), to file such additional reports as are necessary to protect their identity from public disclosure if the President first finds or has found that such filing is necessary in the national interest.

''(b)(1) Except as provided in the second sentence of this subsection, each agency and the Office of Government Ethics shall, within 30 days after any report is received under this title by such agency or Office, as the case may be, permit inspection of such report by or furnish a copy of such report to any person requesting such inspection or copy. With respect to any report required to be filed by May 15 of any year, such report shall be made available for public inspection within 30 calendar days after May 15 of such year or within 30 days of the date of filing of such a report for which an extension is granted pursuant to section 201(g). The agency or the Office of Government Ethics may require a reasonable fee to be paid in any amount which is found necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest.

''(2) Notwithstanding paragraph (1), a report may not be made available under this section to any person nor may any copy thereof be provided under this section to any person except upon a written application by such person stating—

''(A) that person's name, occupation, and address;

''(B) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and

''(C) that such person is aware of the prohibitions on the obtaining or use of the report.

Any such application shall be made available to the public throughout the period during which the report is made available to the public.

''(c)(1) It shall be unlawful for any person to obtain or use a report—

''(A) for any unlawful purpose;

''(B) for any commercial purpose, other than by news and communications media for dissemination to the general public;

''(C) for determining or establishing the credit rating of any individual; or

''(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

''(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1) of this subsection. The court in which such action is brought may assess against such person a penalty in any amount not to exceed $11,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

''(d) Any report filed with or transmitted to an agency or the Office of Government Ethics pursuant to this title shall be retained by such agency or Office, as the case may be. Such report shall be made available to the public for a period of 6 years after receipt of the report. After such 6-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 201(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 201(c) and was not subsequently elected, such reports shall be destroyed 1 year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President or Vice President unless needed in an ongoing investigation.

''SEC. 206. REVIEW OF REPORTS.

''(a) Each designated agency ethics official or Secretary concerned shall make provisions to ensure that each report filed with him under this title is reviewed within 60 days after the date of such filing, except that the Director of the Office of Government Ethics shall review only those reports required to be transmitted to him under this title within 60 days after the date of transmittal.

''(b)(1) If after reviewing any report under subsection (a), the Director of the Office of Government Ethics, the Secretary concerned, or the designated agency ethics official, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such opinion on the report, and shall sign such report.

''(2) If the Director of the Office of Government Ethics, the Secretary concerned, or the designated agency ethics official after reviewing any report under subsection (a)—

''(A) believes additional information is required to be submitted to complete the report or to perform a conflict of interest analysis, he shall notify the individual submitting such report what additional information is required and the time by which it must be submitted, or

''(B) is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, afford a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as to whether or not, on the basis of information submitted, the individual is in compliance with such laws and regulations.

''(3) If the Director of the Office of Government Ethics, the Secretary concerned, or the designated agency ethics official reaches an opinion under paragraph (2)(B) that an individual is not in compliance with applicable laws and regulations, the official shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in the opinion of such official be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—

''(A) divestiture,

''(B) restitution,

''(C) the establishment of a blind trust,

''(D) request for an exemption under section 208(b) of title 18, United States Code, or

''(E) voluntary request for transfer, reassignment, limitation of duties, or resignation.

The use of any such steps shall be in accordance with such rules or regulations as the Office of Government Ethics may prescribe.

''(4) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by an individual in a position in the executive branch (other than in the Foreign Service or the uniformed services), appointment to which requires the advice and consent of the Senate, the matter shall be referred to the President for appropriate action.

''(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by a member of the Foreign Service or the uniformed services, the Secretary concerned shall take appropriate action.

''(6) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by any other officer or employee, the matter shall be referred to the head of the appropriate agency for appropriate action; except that in the case of the Postmaster General or Deputy Postmaster General, the designated agency ethics official of the United States Postal Service shall notify the Director of the Office of Government Ethics, who then shall recommend to the Governors of the Board of Governors of the United States Postal Service the action to be taken.

''(7) The Office of Government Ethics may render advisory opinions interpreting this title. Notwithstanding any other provision of law, the individual to whom a public advisory opinion is rendered in accordance with this paragraph, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any penalty or sanction provided by this title.

''SEC. 207. CONFIDENTIAL REPORTS AND OTHER ADDITIONAL REQUIREMENTS.

''(a)(1) The Office of Government Ethics may require officers and employees of the executive branch (including special Government employees as defined in section 202 of title 18, United States Code) to file confidential financial disclosure reports, in such form as it may prescribe. The information required to be reported under this subsection

by the officers and employees of any department or agency shall be set forth in rules or regulations prescribed by the Office of Government Ethics, and may be less extensive than otherwise required by this title, or more extensive when determined by the Office of Government Ethics to be necessary and appropriate in light of sections 202 through 209 of title 18, United States Code, regulations promulgated thereunder, or the authorized activities of such officers or employees. Any individual required to file a report pursuant to section 201 shall not be required to file a confidential report pursuant to this subsection, except with respect to information which is more extensive than information otherwise required by this title. Subsections (a), (b), and (d) of section 205 shall not apply with respect to any such report.

''(2) Any information required to be provided by an individual under this subsection shall be confidential and shall not be disclosed to the public.

''(3) Nothing in this subsection exempts any individual otherwise covered by the requirement to file a public financial disclosure report under this title from such requirement.

''(b) The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest. Such provisions of this title shall not supersede the requirements of section 7342 of title 5, United States Code.

''(c) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the participation in transactions that are prohibited by law, Executive order, rule, or regulation.

''SEC. 208. AUTHORITY OF COMPTROLLER GENERAL.

''The Comptroller General shall have access to financial disclosure reports filed under this title for the purposes of carrying out his statutory responsibilities.

''SEC. 209. DEFINITIONS.

''For the purposes of this title, the term—

''(1) 'dependent child' means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who—

''(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

''(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1986 (26 U.S.C. 152);

''(2) 'designated agency ethics official' means an officer or employee who is designated to administer the provisions of this title within an agency;

''(3) 'executive branch' includes each Executive agency (as defined in section 105 of title 5, United States Code), other than the General Accounting Office, and any other entity or administrative unit in the executive branch;

''(4) 'gift' means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

''(A) bequest and other forms of inheritance;

''(B) suitable mementos of a function honoring the reporting individual;

''(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

''(D) food and beverages which are not consumed in connection with a gift of overnight lodging;

''(E) communications to the offices of a reporting individual, including subscriptions to newspapers and periodicals; or

''(F) items that are accepted pursuant to or are required to be reported by the reporting individual under section 7342 of title 5, United States Code.

''(5) 'honoraria' means a payment of money or anything of value for an appearance, speech, or article;

''(6) 'income' means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (and net income if the individual elects to include it); gains derived from dealings in property; interest; rents; royalties; prizes and awards; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

''(7) 'personal hospitality of any individual' means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;

''(8) 'reimbursement' means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

''(A) provided by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

''(B) required to be reported by the reporting individual under section 7342 of title 5, United States Code; or

''(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

''(9) 'relative' means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancee of the reporting individual;

''(10) 'Secretary concerned' has the meaning set forth in section 101(a)(9) of title 10, United States Code, and, in addition, means—

''(A) the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration;

''(B) the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service; and

''(C) the Secretary of State, with respect to matters concerning the Foreign Service; and

''(11) 'value' means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual.

''SEC. 210. NOTICE OF ACTIONS TAKEN TO COMPLY WITH ETHICS AGREEMENTS.

''(a) In any case in which an individual agrees with that individual's designated agency ethics official, the Office of Government Ethics, or a Senate confirmation committee, to take any action to comply with this Act or any other law or regulation governing conflicts of interest of, or establishing standards of conduct applicable with respect to, officers or employees of the Government, that individual shall notify in writing the designated agency ethics official, the Office of Government Ethics, or the appropriate committee of the Senate, as the case may be, of any action taken by the individual pursuant to that agreement. Such notification shall be made not later than the date specified in the agreement by which action by the individual must be taken, or not later than 3 months after the date of the agreement, if no date for action is so specified. If all actions agreed to have not been completed by the date of this notification, such notification shall continue on a monthly basis thereafter until the individual has met the terms of the agreement.

''(b) If an agreement described in subsection (a) requires that the individual recuse himself or herself from particular categories of agency or other official action, the individual shall reduce to writing those subjects regarding which the recusal agreement will apply and the process by which it will be determined whether the individual must recuse himself or herself in a specific instance. An individual shall be considered to have complied with the requirements of subsection (a) with respect to such recusal agreement if such individual files a copy of the document setting forth the information described in the preceding sentence with such individual's designated agency ethics official or the Office of Government Ethics not later than the date specified in the agreement by which action by the individual must be taken, or not later than 3 months after the date of the agreement, if no date for action is so specified.

''SEC. 211. ADMINISTRATION OF PROVISIONS.

''The Office of Government Ethics shall issue regulations, develop forms, and provide such guidance as is necessary to implement and interpret this title.''.

SEC. ____05. TRANSMITTAL OF RECORD RELATING TO PRESIDENTIALLY APPOINTED POSITIONS TO PRESIDENTIAL CANDIDATES.

(a) 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.

(b) TRANSMITTAL.—

(1) 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.

(2) OTHER CANDIDATES.—After making transmittals under paragraph (1), the Office of Personnel Management may transmit an electronic record on Presidentially appointed positions to any other candidate for President.

(c) CONTENT.—The record transmitted under this section shall provide—

(1) all positions which are appointed by the President, including the title and description of the duties of each position;

(2) the name of each person holding a position described under paragraph (1);

(3) any vacancy in the positions described under paragraph (1), and the period of time any such position has been vacant;

(4) the date on which an appointment made after the applicable Presidential election for any position described under paragraph (1) is necessary to ensure effective operation of the Government; and

(5) any other information that the Office of Personnel Management determines is useful in making appointments.

SEC. ___06. REDUCTION OF POSITIONS REQUIRING APPOINTMENT WITH SENATE CONFIRMATION.

(a) DEFINITION.—In this section, the term ''agency'' means an Executive agency as defined under section 105 of title 5, United States Code.

(b) REDUCTION PLAN.—

(1) 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—

(A) the President;

(B) the Committee on Governmental Affairs of the Senate; and

(C) the Committee on Government Reform of the House of Representatives.

(2) CONTENT.—The plan under this subsection shall provide for the reduction of—

(A) 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

(B) the number of levels of such positions within that agency.

SEC. ___07. OFFICE OF GOVERNMENT ETHICS REVIEW OF CONFLICT OF INTEREST LAW.

(a) 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—

(1) the President;

(2) the Committee on Governmental Affairs of the Senate;

(3) the Committee on the Judiciary of the Senate;

(4) the Committee on Government Reform of the House of Representatives; and

(5) the Committee on the Judiciary of the House of Representatives.

(b) CONTENT.—The report under this section shall—

(1) 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

(2) 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.).

SEC. ___08. EFFECTIVE DATE.

(a) AMENDMENTS TO ETHICS IN GOVERNMENT ACT OF 1978.—

(1) IN GENERAL.—Subject to subsection (b), the amendments made by sections ___03 and ___04 shall take effect on January 1 of the year following the date of enactment of this title.

(2) LATER DATE.—If the date of enactment of this title is on or after July 1 of any calendar year, the amendments made by sections ___03 and ___04 shall take effect on July 1 in the year following the date of enactment of this title.

(b) OTHER PROVISIONS.—Sections ___01, ___02, ___05, ___06, and ___07 shall take effect on the date of enactment of this title.

SA 3722. Mr. ALLARD 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 subtitle A of title II, add the following:

SEC. ___. USE OF UNITED STATES COMMERCIAL REMOTE SENSING SPACE CAPABILITIES FOR IMAGERY AND GEOSPATIAL INFORMATION REQUIREMENTS.

(a) IN GENERAL.—The National Intelligence Director shall take appropriate actions to ensure, to the maximum extent practicable, the utilization of United States commercial remote sensing space capabilities to fulfill the imagery and geospatial information requirements of the intelligence community.

(b) PROCEDURES FOR UTILIZATION.—The National Intelligence Director may prescribe procedures for the purpose of meeting the requirement in subsection (a).

(c) DEFINITIONS.—In this section, the terms ''imagery'' and ''geospatial information'' have the meanings given such terms in section 467 of title 10, United States Code.

SA 3723. Mrs. HUTCHISON (for herself and Ms. MIKULSKI) 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 94, between lines 17 and 18, insert the following:

(4) The Director shall establish a national intelligence center under this section to be known as the Center for Alternative Intelligence Analysis. The Center for Alternative Intelligence Analysis shall have the mission specified in subsection (e).

On page 97, between lines 4 and 5, insert the following:

(e) MISSION OF CENTER FOR ALTERNATIVE INTELLIGENCE ANALYSIS.—(1) Notwithstanding subsection (d), the mission of the Center for Alternative Intelligence Analysis under subsection (a)(4) shall be to subject each National Intelligence Estimate (NIE), before the completion of such estimate, to a thorough examination of all facts and assumptions utilized in or underlying any analysis, estimation, plan, evaluation, or recommendation contained in such estimate.

(2)(A) The Center may also subject each document referred to in subparagraph (B), before the completion of such document, to a thorough examination as described in paragraph (1).

(B) The documents referred to in this subparagraph are as follows:

(i) A Senior Executive Intelligence Brief (SEIB).

(ii) An Indications and Warning (I&W) report.

(iii) Any other intelligence estimate, brief, survey, assessment, or report designated by the National Intelligence Director for purposes of this subsection.

(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 Center 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 ''CAIA analysis'' of such estimate or document.

(5) The result of each examination of an estimate or document under this subsection shall be submitted to the following:

(A) The National Intelligence Director.

(B) The heads of other departments, agencies, and elements of the intelligence community designated by the President or the National Intelligence Director for purposes of this subsection.

(C) The congressional intelligence committees.

(6)(A) An examination under this subsection shall accompany each National Intelligence Estimate and any other document, report, assessment, or survey designated by the Director for purposes of this subsection.

(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 documents, reports, assessments, and surveys, if any, designated by the Director under subparagraph (A).

On page 97, line 5, strike ''(e)'' and insert ''(f)''.

On page 97, line 19, strike ''(f)'' and insert ''(g)''.

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

On page 99, line 22, insert ''(other than the Center for Alternative Intelligence Analysis)'' after ''a national intelligence center''.

SA 3724. Mr. KYL (for himself, Mr. CORNYN, Mr. CHAMBLISS, and Mr. NICKLES) 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—TOOLS TO FIGHT TERRORISM ACT OF 2004

SEC. 401. SHORT TITLE.

This title may be cited as the ''Tools to Fight Terrorism Act of 2004''.

Subtitle A—Anti-Terrorism Investigative Tools Improvement Act

SEC. 411. SHORT TITLE.

This subtitle may be cited as the ''Anti-terrorism Investigative Tools Improvement Act of 2004''.

SEC. 412. FISA WARRANTS FOR LONE-WOLF TERRORISTS.

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:

''(C) engages in international terrorism or activities in preparation therefore; or''.

SEC. 413. ADDING TERRORIST OFFENSES TO STATUTORY PRESUMPTION OF NO BAIL.

Section 3142 of title 18, United States Code, is amended—

(1) in the flush language at the end of subsection (e) by inserting before the period at the end the following: '', or an offense listed in section 2332b(g)(5)(B) of title 18 of the United States Code, if the Attorney General certifies that the offense appears by its nature or context to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by mass destruction, assassination, or kidnaping, or an offense involved in or related to domestic or international terrorism as defined in section 2331 of title 18 of the United States Code''; and

(2) in subsections (f)(1)(A) and (g)(1), by inserting after ''violence'' the following: ''or

an offense listed in section 2332b(g)(5)(B) of title 18 of the United States Code, if the Attorney General certifies that the offense appears by its nature or context to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by mass destruction, assassination, or kidnaping, or an offense involved in or related to domestic or international terrorism as defined in section 2331 of title 18 of the United States Code,''.

SEC. 414. MAKING TERRORISTS ELIGIBLE FOR LIFETIME POST-RELEASE SUPERVISION.

Section 3583(j) of title 18, United States Code, is amended by striking '', the commission'' and all that follows through ''person,''.

SEC. 415. JUDICIALLY ENFORCEABLE SUBPOENAS IN TERRORISM INVESTIGATIONS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by inserting after section 2332f the following:

''§ 2332g. Judicially enforceable terrorism subpoenas

''(a) AUTHORIZATION OF USE.—

''(1) IN GENERAL.—In any investigation concerning a Federal crime of terrorism (as defined under section 2332b(g)(5)), the Attorney General may issue in writing and cause to be served a subpoena requiring the production of any records or other materials that the Attorney General finds relevant to the investigation, or requiring testimony by the custodian of the materials to be produced concerning the production and authenticity of those materials.

''(2) CONTENTS.—A subpoena issued under paragraph (1) shall describe the records or items required to be produced and prescribe a return date within a reasonable period of time within which the records or items can be assembled and made available.

''(3) ATTENDANCE OF WITNESSES AND PRODUCTION OF RECORDS.—

''(A) IN GENERAL.—The attendance of witnesses and the production of records may be required from any place in any State, or in any territory or other place subject to the jurisdiction of the United States at any designated place of hearing.

''(B) LIMITATION.—A witness shall not be required to appear at any hearing more than 500 miles distant from the place where he was served with a subpoena.

''(C) REIMBURSEMENT.—Witnesses summoned under this section shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States.

''(b) SERVICE.—

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

''(2) SERVICE OF SUBPOENA.—

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

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

''(C) PROOF OF SERVICE.—The affidavit of the person serving the subpoena entered by that person on a true copy thereof shall be sufficient proof of service.

''(c) ENFORCEMENT.—

''(1) IN GENERAL.—In the case of the contumacy by, or refusal to obey a subpoena issued to, any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on, or the subpoenaed person resides, carries on business, or may be found, to compel compliance with the subpoena.

''(2) ORDER.—A court of the United States described under paragraph (1) may issue an order requiring the subpoenaed person, in accordance with the subpoena, to produce records or other materials, or to give testimony concerning the production and authenticity of those materials. Any failure to obey the order of the court may be punished by the court as contempt thereof.

''(3) SERVICE OF PROCESS.—Any process under this subsection may be served in any judicial district in which the person may be found.

''(d) NONDISCLOSURE REQUIREMENT.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, if the Attorney General certifies that otherwise there may result a danger to the national security of the United States, no person shall disclose to any other person that a subpoena was received or records were provided pursuant to this section, other than to—

''(A) those persons to whom such disclosure is necessary in order to comply with the subpoena;

''(B) an attorney to obtain legal advice with respect to testimony or the production of records in response to the subpoena; or

''(C) other persons as permitted by the Attorney General.

''(2) NOTICE OF NONDISCLOSURE REQUIREMENT.—The subpoena, or an officer, employee, or agency of the United States in writing, shall notify the person to whom the subpoena is directed of the nondisclosure requirements under paragraph (1).

''(3) FURTHER APPLICABILITY OF NONDISCLOSURE REQUIREMENTS.—Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).

''(4) ENFORCEMENT OF NONDISCLOSURE REQUIREMENT.—Whoever knowingly violates paragraph (1) or (3) shall be imprisoned for not more than 1 year, and if the violation is committed with the intent to obstruct an investigation or judicial proceeding, shall be imprisoned for not more than 5 years.

''(5) TERMINATION OF NONDISCLOSURE REQUIREMENT.—If the Attorney General concludes that a nondisclosure requirement no longer is justified by a danger to the national security of the United States, an officer, employee, or agency of the United States shall notify the relevant person that the prohibition of disclosure is no longer applicable.

''(e) JUDICIAL REVIEW.—

''(1) IN GENERAL.—At any time before the return date specified in a summons issued under this section, the person or entity summoned may, in the United States district court for the district in which that person or entity does business or resides, petition for an order modifying or setting aside the summons.

''(2) MODIFICATION OF NONDISCLOSURE REQUIREMENT.—Any court described under paragraph (1) may modify or set aside a nondisclosure requirement imposed under subsection (d) at the request of a person to whom a subpoena has been directed, unless there is reason to believe that the nondisclosure requirement is justified because otherwise there may result a danger to the national security of the United States.

''(3) REVIEW OF GOVERNMENT SUBMISSIONS.—In all proceedings under this subsection, the court shall review the submission of the Federal Government, which may include classified information, ex parte and in camera.

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

''(g) REPORTING REQUIREMENT.—The Attorney General shall submit to the Select Committee on Intelligence of the Senate and the permanent Select Committee on Intelligence of the House of Representatives each year a report setting forth with respect to the 1-year period ending on the date of such report—

''(1) the aggregate number of subpoenas issued under this section; and

''(2) the circumstances under which each such subpoena was issued.

''(h) GUIDELINES.—The Attorney General shall, by rule, establish such guidelines as are necessary to ensure the effective implementation of this section.''.

(b) AMENDMENT TO TABLE OF SECTIONS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting after the item relating to section 2332f the following:

''2332g. Judicially enforceable terrorism subpoenas.''.

SEC. 416. HOAXES RELATING TO TERRORIST OFFENSES.

(a) PROHIBITION ON HOAXES.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1037 the following:

''§ 1038. False information and hoaxes

''(a) CRIMINAL VIOLATION.—

''(1) IN GENERAL.—Whoever engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed, and where such information indicates that an activity has taken, is taking, or will take place that would constitute an offense listed under section 2332b(g)(5)(B) of this title—

''(A) be fined under this title or imprisoned not more than 5 years, or both;

''(B) if serious bodily injury (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) results, be fined under this title or imprisoned not more than 25 years, or both; and

''(C) if death results, shall be punished by death or imprisoned for any term of years or for life.

''(2) ARMED FORCES.—Whoever, without lawful authority, makes a false statement, with intent to convey false or misleading information, about the death, injury, capture, or disappearance of a member of the Armed Forces of the United States during a war or armed conflict in which the United States is engaged, shall—

''(A) be fined under this title or imprisoned not more than 5 years, or both;

''(B) if serious bodily injury (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) results, be fined under this title or imprisoned not more than 25 years, or both; and

''(C) if death results, shall be punished by death or imprisoned for any term of years or for life.

''(b) CIVIL ACTION.—Whoever knowingly engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken,

is taking, or will take place that would constitute a violation of chapter 2, 10, 11B, 39, 40, 44, 111, or 113B of this title, section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), or section 46502, the second sentence of section 46504, section 46505 (b)(3) or (c), section 46506 if homicide or attempted homicide is involved, or section 60123(b) of title 49 is liable in a civil action to any party incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

''(c) REIMBURSEMENT.—

''(1) IN GENERAL.—The court, in imposing a sentence on a defendant who has been convicted of an offense under subsection (a), shall order the defendant to reimburse any party incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

''(2) LIABILITY.—A person ordered to make reimbursement under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered to make reimbursement under this subsection for the same expenses.

''(3) CIVIL JUDGMENT.—An order of reimbursement under this subsection shall, for the purposes of enforcement, be treated as a civil judgment.

''(d) ACTIVITIES OF LAW ENFORCEMENT.—This section shall not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or political subdivision of a State, or of an intelligence agency of the United States.''.

(b) CLERICAL AMENDMENT.—The table of sections of chapter 47 of title 18, United States Code, is amended by adding after the item relating to section 1037 the following:

''1038. False information and hoaxes.''.

SEC. 417. INCREASED PENALTIES FOR OBSTRUCTION OF JUSTICE IN TERRORISM CASES.

(a) ENHANCED PENALTY.—Sections 1001(a) and 1505 of title 18, United States Code, are amended by striking ''be fined under this title or imprisoned not more than 5 years, or both'' and inserting ''be fined under this title, imprisoned not more than 5 years or, if the matter relates to international or domestic terrorism (as defined in section 2331), imprisoned not more than 10 years, or both''.

(b) SENTENCING GUIDELINES.—Not later than 30 days after the date of enactment of this section, the United States Sentencing Commission shall amend the Sentencing Guidelines to provide for an increased offense level for an offense under sections 1001(a) and 1505 of title 18, United States Code, if the offense involves a matter relating to international or domestic terrorism, as defined in section 2331 of such title.

SEC. 418. AUTOMATIC PERMISSION FOR EX PARTE REQUESTS FOR PROTECTION UNDER THE CLASSIFIED INFORMATION PROCEDURES ACT.

The second sentence of section 4 of the Classified Information Procedures Act (18 U.S.C. App. 3) is amended—

(1) by striking ''may'' and inserting ''shall''; and

(2) by striking ''a written statement to be inspected'' and inserting ''a statement to be considered''.

SEC. 419. USE OF FISA INFORMATION IN IMMIGRATION PROCEEDINGS.

The following provisions of the Foreign Intelligence Surveillance Act of 1978 are each amended by inserting ''(other than in proceedings or other civil matters under the immigration laws (as that term is defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)))'' after ''authority of the United States'':

(1) Subsections (c), (e), and (f) of section 106 (50 U.S.C. 1806).

(2) Subsections (d), (f), and (g) of section 305 (50 U.S.C. 1825).

(3) Subsections (c), (e), and (f) of section 405 (50 U.S.C. 1845).

SEC. 420. EXPANDED DEATH PENALTY FOR TERRORIST MURDERS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following:

''§ 2339D. Terrorist offenses resulting in death

''(a) PENALTY.—A person who, in the course of committing a terrorist offense, engages in conduct that results in the death of a person, shall be punished by death, or imprisoned for any term of years or for life.

''(b) TERRORIST OFFENSE DEFINED.—In this section, the term 'terrorist offense' means—

''(1) international or domestic terrorism as defined in section 2331;

''(2) a Federal crime of terrorism as defined in section 2332b(g);

''(3) an offense under—

''(A) this chapter;

''(B) section 175, 175b, 229, or 831; or

''(C) section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284); or

''(4) an attempt or conspiracy to commit an offense described in paragraph (1), (2), or (3).''.

(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:

''2339D. Terrorist offenses resulting in death.''.

(c) AGGRAVATING FACTORS.—

(1) IN GENERAL.—Section 3591(a)(1) of title 18, United States Code, is amended by striking ''or section 2381'' and inserting '', 2339D, or 2381''.

(2) CONFORMING AMENDMENT.—Section 3592(b) of title 18, United States Code, is amended—

(A) in the section heading, by striking ''AND TREASON'' and inserting '', TREASON, AND TERRORISM''; and

(B) in paragraph (1)—

(i) in the section heading, by striking ''OR TREASON'' and inserting '', TREASON, OR TERRORISM''; and

(ii) by striking ''or treason'' and inserting '', treason, or terrorism''.

(d) DEATH PENALTY IN CERTAIN AIR PIRACY CASES.—Section 60003(b) of the Violent Crime Control and Law Enforcement Act of 1994, (Public Law 103–322), is amended, as of the time of its enactment, by adding at the end the following:

''(2) DEATH PENALTY PROCEDURES FOR CERTAIN PREVIOUS AIRCRAFT PIRACY VIOLATIONS.—An individual convicted of violating section 46502 of title 49, United States Code, or its predecessor, may be sentenced to death in accordance with the procedures established in chapter 228 of title 18, United States Code, if for any offense committed before the enactment of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), but after the enactment of the Antihijacking Act of 1974 (Public Law 93–366), it is determined by the finder of fact, before consideration of the factors set forth in sections 3591(a)(2) and 3592(a) and (c) of title 18, United States Code, that one or more of the factors set forth in former section 46503(c)(2) of title 49, United States Code, or its predecessor, has been proven by the Government to exist, beyond a reasonable doubt, and that none of the factors set forth in former section 46503(c)(1) of title 49, United States Code, or its predecessor, has been proven by the defendant to exist, by a preponderance of the information. The meaning of the term 'especially heinous, cruel, or depraved', as used in the factor set forth in former section 46503(c)(2)(B)(iv) of title 49, United States Code, or its predecessor, shall be narrowed by adding the limiting language 'in that it involved torture or serious physical abuse to the victim', and shall be construed as when that term is used in section 3592(c)(6) of title 18, United States Code.''.

SEC. 421. 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. 422. UNIFORM STANDARDS FOR INFORMATION SHARING ACROSS FEDERAL AGENCIES.

(a) TELEPHONE RECORDS.—Section 2709(d) of title 18, United States Code, is amended by striking ''for foreign'' and all that follows through ''such agency''.

(b) CONSUMER INFORMATION UNDER 15 U.S.C. 1681u.—Section 625(f) of the Fair Credit Reporting Act (15 U.S.C. 1681u(f)) is amended to read as follows:

''(f) DISSEMINATION OF INFORMATION.—The Federal Bureau of Investigation may disseminate information obtained pursuant to this section only as provided in guidelines approved by the Attorney General.''.

(c) CONSUMER INFORMATION UNDER 15 U.S.C. 1681v.—Section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681v) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

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

''(d) DISSEMINATION OF INFORMATION.—The Federal Bureau of Investigation may disseminate information obtained pursuant to this section only as provided in guidelines approved by the Attorney General.''.

(d) FINANCIAL RECORDS.—Section 1114(a)(5)(B) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(5)(B)) is amended by striking ''for foreign'' and all that follows through ''such agency''.

(e) RECORDS CONCERNING CERTAIN GOVERNMENT EMPLOYEES.—Section 802(e) of the National Security Act of 1947 (50 U.S.C. 436(e)) is amended—

(1) by striking ''An agency'' and inserting the following: ''The Federal Bureau of Investigation may disseminate records or information received pursuant to a request under this section only as provided in guidelines approved by the Attorney General. Any other agency''; and

(2) in paragraph (3), by striking ''clearly''.

SEC. 423. AUTHORIZATION TO SHARE NATIONAL-SECURITY AND GRAND-JURY INFORMATION WITH STATE AND LOCAL GOVERNMENTS.

(a) INFORMATION OBTAINED IN NATIONAL SECURITY INVESTIGATIONS.—Section 203(d) of the USA PATRIOT ACT (50 U.S.C. 403–5d) is amended—

(1) in paragraph (1), by striking ''criminal investigation'' each place it appears and inserting ''criminal or national security investigation''; and

(2) by amending paragraph (2) to read as follows:

''(2) DEFINITIONS.—As used in this subsection—

''(A) the term 'foreign intelligence information' means—

''(i) information, whether or not concerning a United States person, that relates to the ability of the United States to protect against—

''(I) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

''(II) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

''(III) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

''(ii) information, whether or not concerning a United States person, with respect to a foreign power or foreign territory that relates to—

''(I) the national defense or the security of the United States; or

''(II) the conduct of the foreign affairs of the United States; and

''(B) the term 'national security investigation'—

''(i) means any investigative activity to protect the national security; and

''(ii) includes—

''(I) counterintelligence and the collection of intelligence (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)); and

''(II) the collection of foreign intelligence information.''.

(b) RULE AMENDMENTS.—Rule 6(e) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (3)—

(A) in subparagraph (A)(ii), by striking ''or state subdivision or of an Indian tribe'' and inserting '', state subdivision, Indian tribe, or foreign government'';

(B) in subparagraph (D)—

(i) by inserting after the first sentence the following: ''An attorney for the government may also disclose any grand-jury matter involving a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, to any appropriate Federal, State, state subdivision, Indian tribal, or foreign government official for the purpose of preventing or responding to such a threat.''; and

(ii) in clause (i)—

(I) by striking ''federal''; and

(II) by adding at the end the following: ''Any State, state subdivision, Indian tribal, or foreign government official who receives information under Rule 6(e)(3)(D) may use the information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.''; and

(C) in subparagraph (E)—

(i) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively;

(ii) by inserting after clause (ii) the following:

''(iii) at the request of the government, when sought by a foreign court or prosecutor for use in an official criminal investigation;''; and

(iii) in clause (iv), as redesignated—

(I) by striking ''state or Indian tribal'' and inserting ''State, Indian tribal, or foreign''; and

(II) by striking ''or Indian tribal official'' and inserting ''Indian tribal, or foreign government official''; and

(2) in paragraph (7), by inserting '', or of guidelines jointly issued by the Attorney General and Director of Central Intelligence pursuant to Rule 6,'' after ''Rule 6''.

(c) CONFORMING AMENDMENT.—Section 203(c) of the USA PATRIOT ACT (18 U.S.C. 2517 note) is amended by striking ''Rule 6(e)(3)(C)(i)(V) and (VI)'' and inserting ''Rule 6(e)(3)(D)''.

SEC. 424. 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. 425. 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.

SEC. 426. WEAPONS OF MASS DESTRUCTION.

(a) EXPANSION OF JURISDICTIONAL BASES AND SCOPE.—Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (2) and inserting the following:

''(2)(A) against any person or property within the United States; and

''(B)(i) the mail or any facility of interstate or foreign commerce is used in furtherance of the offense;

''(ii) such property is used in interstate or foreign commerce or in an activity that affects interstate or foreign commerce;

''(iii) any perpetrator travels in or causes another to travel in interstate or foreign commerce in furtherance of the offense; or

''(iv) the offense, or the results of the offense, affect interstate or foreign commerce, or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce;'';

(B) in paragraph (3), by striking the comma at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(4) against any property within the United States that is owned, leased, or used by a foreign government,''; and

(2) in subsection (c)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) the term 'property' includes all real and personal property.''.

(b) RESTORATION OF THE COVERAGE OF CHEMICAL WEAPONS.—

(1) IN GENERAL.—Section 2332a of title 18, United States Code, as amended by this Act, is further amended by—

(A) in the section heading, by striking ''CERTAIN'';

(B) in subsection (a), by striking ''(other than a chemical weapon as that term is defined in section 229F)''; and

(C) in subsection (b), by striking ''(other than a chemical weapon (as that term is defined in section 229F))''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 113B of title 18, United States Code, is amended in the matter relating to section 2332a by striking ''certain''.

(c) EXPANSION OF CATEGORIES OF RESTRICTED PERSONS SUBJECT TO PROHIBITIONS RELATING TO SELECT AGENTS.—Section 175b(d)(2) of title 18, United States Code, is amended—

(1) in subparagraph (G)—

(A) by inserting ''(i)'' after ''(G)'';

(B) by striking ''or'' after the semicolon; and

(C) by adding at the end the following:

''(ii) acts for or on behalf of, or operates subject to the direction or control of, a government or official of a country described in this subparagraph;''; and

(2) in subparagraph (H), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(I) is a member of, acts for or on behalf of, or operates subject to the direction or control of, a terrorist organization (as that term is defined under section 212(a)(3)B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi))).''.

(d) CONFORMING AMENDMENT TO REGULATIONS.—

(1) IN GENERAL.—Section 175b(a)(1) of title 18, United States Code, is amended by striking ''as a select agent in Appendix A'' and all that follows through the period and inserting ''as a non-overlap or overlap select biological agent or toxin in sections 73.4 and 73.5 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not excluded under sections 73.4 and 73.5 or exempted under section 73.6 of title 42, Code of Federal Regulations.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date that sections 73.4, 73.5, and 73.6 of title 42, Code of Federal Regulations, become effective.

SEC. 427. PARTICIPATION IN NUCLEAR AND WEAPONS OF MASS DESTRUCTION THREATS TO THE UNITED STATES.

(a) ATOMIC ENERGY ACT.—Section 57(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2077(b)) is amended by striking ''in the production of any special nuclear material'' and inserting ''or participate in the development or production of any special nuclear material or atomic weapon''.

(b) NUCLEAR WEAPON AND WMD THREATS.—

(1) IN GENERAL.—Chapter 39 of title 18, United States Code, is amended by adding at the end the following:

''§ 838. Participation in nuclear and weapons of mass destruction threats to the United States

''(a) IN GENERAL.—Whoever, within the United States, or subject to the jurisdiction of the United States, willfully participates in or provides material support or resources (as that term is defined under section 2339A) to a nuclear weapons program, or other weapons of mass destruction program of a foreign terrorist power, or attempts or conspires to do so, shall be imprisoned for not more than 20 years.

''(b) JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

''(c) DEFINITIONS.—As used in this section—

''(1) FOREIGN TERRORIST POWER.—The term 'foreign terrorist power' means a terrorist organization designated under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189), or a state sponsor of terrorism designated under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405), or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

''(2) NUCLEAR WEAPON.—The term 'nuclear weapon' means any weapon that contains or uses nuclear material (as that term is defined under section 831(f)(1)).

''(3) NUCLEAR WEAPONS PROGRAM.—The term 'nuclear weapons program' means a program or plan for the development, acquisition, or production of any nuclear weapon or weapons.

''(4) WEAPONS OF MASS DESTRUCTION PROGRAM.—The term 'weapons of mass destruction program' means a program or plan for the development, acquisition, or production of any weapon or weapons of mass destruction (as that term is defined in section 2332a(c)).''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 39 of title 18, United States Code, is amended by adding at the end the following:

''Sec. 838. Participation in nuclear and weapons of mass destruction threats to the United States.''.

(c) ACT OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.—Section 2332b(g)(5)(B)(i) of title 18, United States Code, is amended by inserting ''832 (relating to participation in nuclear and weapons of mass destruction threats to the United States)'' after ''nuclear materials),''.

Subtitle B—Prevention of Terrorist Access to Special Weapons Act

SEC. 431. SHORT TITLE.

This subtitle may be cited as the ''Prevention of Terrorist Access to Special Weapons Act of 2004''.

SEC. 432. MISSILE SYSTEMS DESIGNED TO DESTROY AIRCRAFT.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding after section 2332g, as added by this Act, the following:

''§ 2332h. Missile systems designed to destroy aircraft

''(a) UNLAWFUL CONDUCT.—

''(1) IN GENERAL.—Except as provided in paragraph (3), it shall be unlawful for any person to knowingly produce, construct, otherwise acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use—

''(A) an explosive or incendiary rocket or missile that is guided by any system designed to enable the rocket or missile to—

''(i) seek or proceed toward energy radiated or reflected from an aircraft or toward an image locating an aircraft; or

''(ii) otherwise direct or guide the rocket or missile to an aircraft;

''(B) any device designed or intended to launch or guide a rocket or missile described in subparagraph (A); or

''(C) any part or combination of parts designed or redesigned for use in assembling or fabricating a rocket, missile, or device described in subparagraph (A) or (B).

''(2) NONWEAPON.—Paragraph (1)(A) does not apply to any device that is neither designed nor redesigned for use as a weapon.

''(3) EXCLUDED CONDUCT.—This subsection does not apply with respect to—

''(A) conduct by or under the authority of the United States or any department or agency thereof or of a State or any department or agency thereof; or

''(B) conduct pursuant to the terms of a contract with the United States or any department or agency thereof or with a State or any department or agency thereof.

''(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

''(1) the offense occurs in or affects interstate or foreign commerce;

''(2) the offense occurs outside of the United States and is committed by a national of the United States;

''(3) the offense is committed against a national of the United States while the national is outside the United States;

''(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

''(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

''(c) CRIMINAL PENALTIES.—

''(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than $2,000,000 and shall be sentenced to a term of imprisonment not less than 30 years or to imprisonment for life.

''(2) LIFE IMPRISONMENT.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than $2,000,000 and imprisoned for life.

''(3) DEATH PENALTY.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than $2,000,000 and punished by death or imprisoned for life.

''(d) DEFINITION.—As used in this section, the term 'aircraft' has the definition set forth in section 40102(a)(6) of title 49, United States Code.''.

(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:

''2332h. Missile systems designed to destroy aircraft.''.

SEC. 433. ATOMIC WEAPONS.

(a) PROHIBITIONS.—Section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) is amended by—

(1) inserting at the beginning ''a.'' before ''It'';

(2) inserting ''knowingly'' after ''for any person to'';

(3) striking ''or'' before ''export'';

(4) striking ''transfer or receive in interstate or foreign commerce,'' before ''manufacture'';

(5) inserting ''receive,'' after ''acquire,'';

(6) inserting '', or use, or possess and threaten to use,'' before ''any atomic weapon'';

(7) inserting at the end the following:

''b. Conduct prohibited by subsection a. is within the jurisdiction of the United States if—

''(1) the offense occurs in or affects interstate or foreign commerce; the offense occurs outside of the United States and is committed by a national of the United States;

''(2) the offense is committed against a national of the United States while the national is outside the United States;

''(3) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

''(4) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.''.

(b) VIOLATIONS.—Section 222 of the Atomic Energy Act of 1954 (42 U.S.C. 2272) is amended by—

(1) inserting at the beginning ''a.'' before ''Whoever'';

(2) striking '', 92,''; and

(3) inserting at the end the following:

''b. Any person who violates, or attempts or conspires to violate, section 92 shall be fined not more than $2,000,000 and sentenced to a term of imprisonment not less than 30 years or to imprisonment for life. Any person who, in the course of a violation of section 92, uses, attempts or conspires to use, or possesses and threatens to use, any atomic weapon shall be fined not more than $2,000,000 and imprisoned for life. If the death of another results from a person's violation of section 92, the person shall be fined not more than $2,000,000 and punished by death or imprisoned for life.''.

SEC. 434. RADIOLOGICAL DISPERSAL DEVICES.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding after section 2332h, as added by this Act, the following:

''§ 2332i. Radiological dispersal devices

''(a) UNLAWFUL CONDUCT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any

person to knowingly produce, construct, otherwise acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use—

''(A) any weapon that is designed or intended to release radiation or radioactivity at a level dangerous to human life; or

''(B) any device or other object that is capable of and designed or intended to endanger human life through the release of radiation or radioactivity.

''(2) EXCEPTION.—This subsection does not apply with respect to—

''(A) conduct by or under the authority of the United States or any department or agency thereof; or

''(B) conduct pursuant to the terms of a contract with the United States or any department or agency thereof.

''(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

''(1) the offense occurs in or affects interstate or foreign commerce;

''(2) the offense occurs outside of the United States and is committed by a national of the United States;

''(3) the offense is committed against a national of the United States while the national is outside the United States;

''(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

''(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

''(c) CRIMINAL PENALTIES.—

''(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than $2,000,000 and shall be sentenced to a term of imprisonment not less than 30 years or to imprisonment for life.

''(2) LIFE IMPRISONMENT.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than $2,000,000 and imprisoned for life.

''(3) DEATH PENALTY.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than $2,000,000 and punished by death or imprisoned for life.''.

(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:

''2332i. Radiological dispersal devices.''.

SEC. 435. VARIOLA VIRUS.

(a) IN GENERAL.—Chapter 10 of title 18, United States Code, is amended by inserting after section 175b the following:

''§ 175c. Variola virus

''(a) UNLAWFUL CONDUCT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly produce, engineer, synthesize, acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use, variola virus.

''(2) EXCEPTION.—This subsection does not apply to conduct by, or under the authority of, the Secretary of Health and Human Services.

''(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

''(1) the offense occurs in or affects interstate or foreign commerce;

''(2) the offense occurs outside of the United States and is committed by a national of the United States;

''(3) the offense is committed against a national of the United States while the national is outside the United States;

''(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

''(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

''(c) CRIMINAL PENALTIES.—

''(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than $2,000,000 and shall be sentenced to a term of imprisonment not less than 30 years or to imprisonment for life.

''(2) LIFE IMPRISONMENT.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than $2,000,000 and imprisoned for life.

''(3) DEATH PENALTY.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than $2,000,000 and punished by death or imprisoned for life.

''(d) DEFINITION.—As used in this section, the term 'variola virus' means a virus that can cause human smallpox or any derivative of the variola major virus that contains more than 85 percent of the gene sequence of the variola major virus or the variola minor virus.''.

(b) CHAPTER ANALYSIS.—The table of sections of chapter 10 of title 18, United States Code, is amended by inserting at the end the following:

''175c. Variola virus.''.

SEC. 436. INTERCEPTION OF COMMUNICATIONS.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (a), by inserting ''2122 and'' after ''sections'';

(2) in paragraph (c), by inserting ''section 175c (relating to variola virus),'' after ''section 175 (relating to biological weapons),'';

(3) in paragraph (q), by inserting ''2332h, 2332i,'' after ''2332f,''; and

(4) in paragraph (q), by striking ''or 2339C'' and inserting ''2339C, or 2339E''.

SEC. 437. AMENDMENTS TO SECTION 2332b(g)(5)(B) OF TITLE 18, UNITED STATES CODE.

Section 2332b(g)(5)(B) of title 18, United States Code, is amended—

(1) in clause (i)—

(A) by inserting before ''2339 (relating to harboring terrorists)'' the following: ''2332h (relating to missile systems designed to destroy aircraft), 2332i (relating to radiological dispersal devices),'';

(B) by inserting ''175c (relating to variola virus),'' after ''175 or 175b (relating to biological weapons),''; and

(C) by inserting ''2339E (receiving military-type training from a foreign terrorist organization),'' after ''2339C (relating to financing of terrorism),''; and

(2) in clause (ii)—

(A) by striking ''section'' and inserting ''sections 92 (relating to prohibitions governing atomic weapons) or''; and

(B) by inserting ''2122 or'' before ''2284''.

SEC. 438. AMENDMENTS TO SECTION 1956(c)(7)(D) OF TITLE 18, UNITED STATES CODE.

Section 1956(c)(7)(D), title 18, United States Code, is amended—

(1) by inserting after ''section 152 (relating to concealment of assets; false oaths and claims; bribery),'' the following: ''section 175c (relating to the variola virus),'';

(2) by inserting after ''section 2332(b) (relating to international terrorist acts transcending national boundaries),'' the following: ''section 2332h (relating to missile systems designed to destroy aircraft), section 2332i (relating to radiological dispersal devices),''; and

(3) striking ''or'' after ''any felony violation of the Foreign Agents Registration Act of 1938,'' and after ''any felony violation of the Foreign Corrupt Practices Act'', striking ''.'' and inserting '', or section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) (relating to prohibitions governing atomic weapons)''.

SEC. 439. EXPORT LICENSING PROCESS.

Section 38(g)(1)(A) of the Arms Export Control Act (22 U.S.C. 2778) is amended—

(1) by striking ''or'' before ''(xi)''; and

(2) by inserting after clause (xi) the following: ''or (xii) section 3, 4, 5, and 6 of the Prevention of Terrorist Access to Destructive Weapons Act of 2004, relating to missile systems designed to destroy aircraft (18 U.S.C. 2332g), prohibitions governing atomic weapons (42 U.S.C. 2122), radiological dispersal devices (18 U.S.C. 2332h), and variola virus (18 U.S.C. 175b);''.

Subtitle C—Railroad Carriers and Mass Transportation Protection Act

SEC. 441. SHORT TITLE.

This subtitle may be cited as the ''Railroad Carriers and Mass Transportation Protection Act of 2004''.

SEC. 442. ATTACKS AGAINST RAILROAD CARRIERS, PASSENGER VESSELS, AND MASS TRANSPORTATION SYSTEMS.

(a) 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.''.

(b) 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),''.

Subtitle D—Reducing Crime and Terrorism at America's Seaports Act

SEC. 451. SHORT TITLE.

This subtitle may be cited as the ''Reducing Crime and Terrorism at America's Seaports Act of 2004''.

SEC. 452. 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 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:

''§ 26. 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, and 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 25 the following:

''26. Definition of seaport.''.

SEC. 453. 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. 454. 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. 455. TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.

(a) TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.—Chapter 111 of title 18, as amended by this Act, 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 Act, is amended by adding at the end the following:

''2283. Transportation of explosive, biological, chemical, or radioactive or nuclear materials.

''2284. Transportation of terrorists.''.

SEC. 456. DESTRUCTION OR INTERFERENCE WITH VESSELS OR MARITIME FACILITIES.

(a) IN GENERAL.—Part 1 of 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.''.

(b) 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. 457. 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 transhipment 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'' 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 Act.

(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 Act.

(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 no later than December 31, 2005.

SEC. 458. 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. 459. 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. 460. 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.''.

Subtitle E—Combating Money Laundering and Terrorist Financing Act

SEC. 471. SHORT TITLE.

This subtitle may be cited as the ''Combating Money Laundering and Terrorist Financing Act of 2004''.

SEC. 472. SPECIFIED ACTIVITIES FOR MONEY LAUNDERING.

(a) RICO DEFINITIONS.—Section 1961(1) of title 18, United States Code, is amended—

(1) in subparagraph (A), by inserting ''burglary, embezzlement,'' after ''robbery,'';

(2) in subparagraph (B), by—

(A) inserting ''section 1960 (relating to illegal money transmitters),'' before ''sections 2251'';

(B) striking ''1591'' and inserting ''1592'';

(C) inserting ''and 1470'' after ''1461–1465''; and

(D) inserting ''2252A,'' after ''2252,'';

(3) in subparagraph (D), by striking ''fraud in the sale of securities'' and inserting ''fraud in the purchase or sale of securities''; and

(4) in subparagraph (F), by inserting ''and 274A'' after ''274''.

(b) MONETARY INVESTMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by—

(1) inserting '', or section 2339C (relating to financing of terrorism)'' before ''of this title''; and

(2) 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)''.

(c) CONFORMING AMENDMENTS.—

(1) 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.''.

(2) 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.''.

SEC. 473. ILLEGAL MONEY TRANSMITTING BUSINESSES.

(a) TECHNICAL AMENDMENTS.—Section 1960 of title 18, United States Code, is amended—

(1) in the caption by striking ''unlicensed'' and inserting ''illegal'';

(2) in subsection (a), by striking ''unlicensed'' and inserting ''illegal'';

(3) in subsection (b)(1), by striking ''unlicensed'' and inserting ''illegal''; and

(4) in subsection (b)(1)(C), by striking ''to be used to be used'' and inserting ''to be used''.

(b) PROHIBITION OF 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''.

(c) AUTHORITY TO INVESTIGATE.—Section 1960 of title 18, United States Code, is amended by adding at the end the following:

''(c) Violations of this section may be investigated by the Attorney General, the Secretary of the Treasury, and the Secretary of the Department of Homeland Security.''.

SEC. 474. 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 by—

(1) striking ''or'' at the end of clause (ii);

(2) striking the period at the end of clause (iii) and inserting ''; or''; and

(3) 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.''.

SEC. 475. 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.''.

SEC. 476. FINANCING OF TERRORISM.

(a) CONCEALMENT.—Section 2339C(c)(2) of title 18, United States Code, is amended to read as follows:

''(2) knowingly conceals or disguises the nature, location, source, ownership, or control of any material support, or resources, or any funds or proceeds of such funds—

''(A) knowing or intending that the support or resources are to be provided, or knowing that the support or resources were provided, in violation of section 2339B; or

''(B) knowing or intending that any such funds are to be provided or collected, or knowing that the funds were provided or collected, in violation of subsection (a),

shall be punished as prescribed in subsection (d)(2).''.

(b) DEFINITION.—Section 2339C(e) of title 18, United States Code, is amended—

(1) in paragraph (12), by striking ''and'' at the end;

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting after paragraph (12) the following:

''(13) the term 'material support or resources' has the same meaning as in section 2339B(g)(4); and''.

SEC. 477. MISCELLANEOUS AND TECHNICAL AMENDMENTS.

(a) CRIMINAL FORFEITURE.—Section 982(b)(2) of title 18, United States Code, is amended, by striking ''The substitution'' and inserting ''With respect to a forfeiture under subsection (a)(1), the substitution''.

(b) TECHNICAL AMENDMENTS TO SECTIONS 1956 AND 1957.—

(1) 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.

(2) PROPERTY FROM UNLAWFUL ACTIVITY.—Section 1957 of title 18, United States Code, is amended—

(A) in subsection (a), by striking ''engages or attempts to engage in'' and inserting ''conducts or attempts to conduct''; and

(B) 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.''.

(c) 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''.

(d) INTERNATIONAL TERRORISM.—Section 2332b(g)(5)(B) of title 18, United States Code, is amended by inserting ''(''' after ''2339C (relating to financing of terrorism''.

Subtitle F—Effective Date

SEC. 481. EFFECTIVE DATE.

Notwithstanding section 341, this title shall take effect on the date of enactment of this Act.

SA 3725. Mr. INHOFE (for himself and 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:

In section 406 of the amendment, redesignate subsections (i) and (j) as subsections (j) and (k), respectively.

In section 406 of the amendment, insert after subsection (h) the following:

(i) PARTICIPATION OF UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.—

(1) PARTICIPATION.—The Under Secretary for Emergency Preparedness and Response shall participate in the grantmaking process for the Threat-Based Homeland Security Grant Program for nonlaw enforcement-related grants in order to ensure that preparedness grants where appropriate, are consistent, and are not in conflict, with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) REPORTS.—The Under Secretary for Emergency Preparedness and Response shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual report that describes—

(A) the status of the Threat-Based Homeland Security Grant Program; and

(B) the impact of that program on programs authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

SA 3726. 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 129, strike line 21 and all that follows through page 137, line 23, and insert the following:

(6) 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.

(7) A new approach to the sharing of intelligence and homeland security information is urgently needed. An important conceptual model for a new ''trusted information network'' is the Systemwide Homeland Analysis and Resource Exchange (SHARE) Network proposed by a task force of leading professionals assembled by the Markle Foundation and described in reports issued in October 2002 and December 2003.

(8) No single agency can create a meaningful information sharing system on its own. Alone, each agency can only modernize stovepipes, not replace them. Presidential leadership is required to bring about governmentwide change.

(c) INFORMATION SHARING NETWORK.—

(1) ESTABLISHMENT.—The President shall establish a trusted information network and secure information sharing environment to promote sharing of intelligence and homeland security information in a manner consistent with national security and the protection of privacy and civil liberties, and based on clearly defined and consistently applied policies and procedures, and valid investigative, analytical or operational requirements.

(2) ATTRIBUTES.—The Network shall promote coordination, communication and collaboration of people and information among all relevant Federal departments and agencies, State, tribal, and local authorities, and relevant private sector entities, including owners and operators of critical infrastructure, by using policy guidelines and technologies that support—

(A) a decentralized, distributed, and coordinated environment that connects existing systems where appropriate and allows users to share information among agencies, between levels of government, and, as appropriate, with the private sector;

(B) the sharing of information in a form and manner that facilitates its use in analysis, investigations and operations;

(C) enabling connectivity between Federal and State agencies and civilian authorities and local first responders in the event of a terrorist attack or significant national disaster;

(D) building upon existing systems capabilities currently in use across the Government;

(E) utilizing industry best practices, including minimizing the centralization of data and seeking to use common tools and capabilities whenever possible;

(F) employing an information access management approach that controls access to data rather than to just networks;

(G) facilitating the sharing of information at and across all levels of security by using

policy guidelines and technologies that support writing information that can be broadly shared;

(H) providing directory services for locating people and information;

(I) incorporating protections for individuals' privacy and civil liberties;

(J) incorporating strong mechanisms for information security and privacy and civil liberties guideline enforcement in order to enhance accountability and facilitate oversight, including—

(i) multifactor authentication and access control;

(ii) strong encryption and data protection;

(iii) immutable audit capabilities;

(iv) automated policy enforcement;

(v) perpetual, automated screening for abuses of network and intrusions; and

(vi) uniform classification and handling procedures;

(K) compliance with requirements of applicable law and guidance with regard to the planning, design, acquisition, operation, and management of information systems; and

(L) permitting continuous system upgrades to benefit from advances in technology while preserving the integrity of stored data.

(d) IMMEDIATE ACTIONS.—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Executive Council, shall—

(1) submit to the President and to Congress a description of the technological, legal, and policy issues presented by the creation of the Network described in subsection (c), and the way in which these issues will be addressed;

(2) establish electronic directory services to assist in locating in the Federal Government intelligence and homeland security information and people with relevant knowledge about intelligence and homeland security information; and

(3) conduct a review of relevant current Federal agency capabilities, including—

(A) a baseline inventory of current Federal systems that contain intelligence or homeland security information;

(B) the money currently spent to maintain those systems; and

(C) identification of other information that should be included in the Network.

(e) GUIDELINES AND REQUIREMENTS.—As soon as possible, but in no event later than 180 days after the date of the enactment of this Act, the President shall—

(1) in consultation with the Executive Council—

(A) issue guidelines for acquiring, accessing, sharing, and using information, including guidelines to ensure that information is provided in its most shareable form, such as by separating out data from the sources and methods by which that data are obtained; and

(B) on classification policy and handling procedures across Federal agencies, including commonly accepted processing and access controls;

(2) in consultation with the Privacy and Civil Liberties Oversight Board established under section 211, issue guidelines that—

(A) protect privacy and civil liberties in the development and use of the Network; and

(B) shall be made public, unless, and only to the extent that, nondisclosure is clearly necessary to protect national security; and

(3) require the heads of Federal departments and agencies to promote a culture of information sharing by—

(A) reducing disincentives to information sharing, including overclassification of information and unnecessary requirements for originator approval; and

(B) providing affirmative incentives for information sharing, such as the incorporation of information sharing performance measures into agency and managerial evaluations, and employee awards for promoting innovative information sharing practices.

(f) ENTERPRISE ARCHITECTURE AND IMPLEMENTATION PLAN.—Not later than 270 days after the date of the enactment of this Act, the Director of Management and Budget shall submit to the President and to Congress an enterprise architecture and implementation plan for the Network. The enterprise architecture and implementation plan shall be prepared by the Director of Management and Budget, in consultation with the Executive Council, and shall include—

(1) a description of the parameters of the proposed Network, including functions, capabilities, and resources;

(2) a delineation of the roles of the Federal departments and agencies that will participate in the development of the Network, including identification of any agency that will build the infrastructure needed to operate and manage the Network (as distinct from the individual agency components that are to be part of the Network), with the delineation of roles to be consistent with—

(A) the authority of the National Intelligence Director under this Act to set standards for information sharing and information technology throughout the intelligence community; and

(B) the authority of the Secretary of Homeland Security and the role of the Department of Homeland Security in coordinating with State, tribal, and local officials and the private sector;

(3) a description of the technological requirements to appropriately link and enhance existing networks and a description of the system design that will meet these requirements;

(4) an enterprise architecture that—

(A) is consistent with applicable laws and guidance with regard to planning, design, acquisition, operation, and management of information systems;

(B) will be used to guide and define the development and implementation of the Network; and

(C) addresses the existing and planned enterprise architectures of the departments and agencies participating in the Network;

(5) a description of how privacy and civil liberties will be protected throughout the design and implementation of the Network;

(6) objective, systemwide performance measures to enable the assessment of progress toward achieving full implementation of the Network;

(7) a plan, including a time line, for the development and phased implementation of the Network;

(8) total budget requirements to develop and implement the Network, including the estimated annual cost for each of the 5 years following the date of the enactment of this Act;

(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) proposals for any legislation that the Director of Management and Budget determines necessary to implement the Network.

SA 3727. 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. ___. AMENDMENTS TO CLINGER-COHEN PROVISIONS TO ENHANCE AGENCY PLANNING FOR INFORMATION SECURITY NEEDS.

Chapter 113 of title 40, United States Code, is amended—

(1) in section 11302(b), by inserting ''security,'' after ''use,'';

(2) in section 11302(c), by inserting '', including information security risks,'' after ''risks'' both places it appears;

(3) in section 11312(b)(1), by striking ''information technology investments'' and inserting ''investments in information technology (including information security needs)''; and

(4) in section 11315(b)(2), by inserting '', secure,'' after ''sound''.

SA 3728. Mr. BROWNBACK (for himself and Mr. BAYH) proposed an amendment to the bill H.R. 4011, to promote human rights and freedom in the Democratic People's Republic of Korea, 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 ''North Korean Human Rights Act of 2004''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings.
Sec. 4. Purposes.
Sec. 5. Definitions.

TITLE I—PROMOTING THE HUMAN RIGHTS OF NORTH KOREANS

Sec. 101. Sense of Congress regarding negotiations with North Korea.
Sec. 102. Support for human rights and democracy programs.
Sec. 103. Radio broadcasting to North Korea.
Sec. 104. Actions to promote freedom of information.
Sec. 105. United Nations Commission on Human Rights.
Sec. 106. Establishment of regional framework.
Sec. 107. Special Envoy on Human Rights in North Korea.

TITLE II—ASSISTING NORTH KOREANS IN NEED

Sec. 201. Report on United States humanitarian assistance.
Sec. 202. Assistance provided inside North Korea.
Sec. 203. Assistance provided outside of North Korea.

TITLE III—PROTECTING NORTH KOREAN REFUGEES

Sec. 301. United States policy toward refugees and defectors.
Sec. 302. Eligibility for refugee or asylum consideration.
Sec. 303. Facilitating submission of applications for admission as a refugee.
Sec. 304. United Nations High Commissioner for Refugees.
Sec. 305. Annual reports.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) According to the Department of State, the Government of North Korea is ''a dictatorship under the absolute rule of Kim Jong Il'' that continues to commit numerous, serious human rights abuses.

(2) The Government of North Korea attempts to control all information, artistic expression, academic works, and media activity inside North Korea and strictly curtails freedom of speech and access to foreign broadcasts.

(3) The Government of North Korea subjects all its citizens to systematic, intensive political and ideological indoctrination in support of the cult of personality glorifying Kim Jong Il and the late Kim Il Sung that approaches the level of a state religion.

(4) The Government of North Korea divides its population into categories, based on perceived loyalty to the leadership, which determines access to food, employment, higher education, place of residence, medical facilities, and other resources.

(5) According to the Department of State, ''[t]he [North Korean] Penal Code is [d]raconian, stipulating capital punishment and confiscation of assets for a wide variety of 'crimes against the revolution,' including defection, attempted defection, slander of the policies of the Party or State, listening to foreign broadcasts, writing 'reactionary' letters, and possessing reactionary printed matter''.

(6) The Government of North Korea executes political prisoners, opponents of the regime, some repatriated defectors, some members of underground churches, and others, sometimes at public meetings attended by workers, students, and schoolchildren.

(7) The Government of North Korea holds an estimated 200,000 political prisoners in camps that its State Security Agency manages through the use of forced labor, beatings, torture, and executions, and in which many prisoners also die from disease, starvation, and exposure.

(8) According to eyewitness testimony provided to the United States Congress by North Korean camp survivors, camp inmates have been used as sources of slave labor for the production of export goods, as targets for martial arts practice, and as experimental victims in the testing of chemical and biological poisons.

(9) According to credible reports, including eyewitness testimony provided to the United States Congress, North Korean Government officials prohibit live births in prison camps, and forced abortion and the killing of newborn babies are standard prison practices.

(10) According to the Department of State, ''[g]enuine religious freedom does not exist in North Korea'' and, according to the United States Commission on International Religious Freedom, ''[t]he North Korean state severely represses public and private religious activities'' with penalties that reportedly include arrest, imprisonment, torture, and sometimes execution.

(11) More than 2,000,000 North Koreans are estimated to have died of starvation since the early 1990s because of the failure of the centralized agricultural and public distribution systems operated by the Government of North Korea.

(12) According to a 2002 United Nations-European Union survey, nearly one out of every ten children in North Korea suffers from acute malnutrition and four out of every ten children in North Korea are chronically malnourished.

(13) Since 1995, the United States has provided more than 2,000,000 tons of humanitarian food assistance to the people of North Korea, primarily through the World Food Program.

(14) Although United States food assistance has undoubtedly saved many North Korean lives and there have been minor improvements in transparency relating to the distribution of such assistance in North Korea, the Government of North Korea continues to deny the World Food Program forms of access necessary to properly monitor the delivery of food aid, including the ability to conduct random site visits, the use of native Korean-speaking employees, and travel access throughout North Korea.

(15) The risk of starvation, the threat of persecution, and the lack of freedom and opportunity in North Korea have caused large numbers, perhaps even hundreds of thousands, of North Koreans to flee their homeland, primarily into China.

(16) North Korean women and girls, particularly those who have fled into China, are at risk of being kidnapped, trafficked, and sexually exploited inside China, where many are sold as brides or concubines, or forced to work as prostitutes.

(17) The Governments of China and North Korea have been conducting aggressive campaigns to locate North Koreans who are in China without permission and to forcibly return them to North Korea, where they routinely face torture and imprisonment, and sometimes execution.

(18) Despite China's obligations as a party to the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees, China routinely classifies North Koreans seeking asylum in China as mere ''economic migrants'' and returns them to North Korea without regard to the serious threat of persecution they face upon their return.

(19) The Government of China does not provide North Koreans whose asylum requests are rejected a right to have the rejection reviewed prior to deportation despite its obligations under the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees.

(20) North Koreans who seek asylum while in China are routinely imprisoned and tortured, and in some cases killed, after they are returned to North Korea.

(21) The Government of China has detained, convicted, and imprisoned foreign aid workers attempting to assist North Korean refugees in proceedings that did not comply with Chinese law or international standards.

(22) In January 2000, North Korean agents inside China allegedly abducted the Reverend Kim Dong-shik, a United States permanent resident and advocate for North Korean refugees, whose condition and whereabouts remain unknown.

(23) Between 1994 and 2003, South Korea has admitted approximately 3,800 North Korean refugees for domestic resettlement, a number that is small in comparison with the total number of North Korean escapees but far greater than the number legally admitted in any other country.

(24) Although the principal responsibility for North Korean refugee resettlement naturally falls to the Government of South Korea, the United States should play a leadership role in focusing international attention on the plight of these refugees, and formulating international solutions to that profound humanitarian dilemma.

(25) In addition to infringing the rights of its own citizens, the Government of North Korea has been responsible in years past for the abduction of numerous citizens of South Korea and Japan, whose condition and whereabouts remain unknown.

SEC. 4. PURPOSES.

The purposes of this Act are—

(1) to promote respect for and protection of fundamental human rights in North Korea;

(2) to promote a more durable humanitarian solution to the plight of North Korean refugees;

(3) to promote increased monitoring, access, and transparency in the provision of humanitarian assistance inside North Korea;

(4) to promote the free flow of information into and out of North Korea; and

(5) to promote progress toward the peaceful reunification of the Korean peninsula under a democratic system of government.

SEC. 5. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on International Relations of the House of Representatives; and

(B) the Committee on Foreign Relations of the Senate.

(2) CHINA.—The term ''China'' means the People's Republic of China.

(3) HUMANITARIAN ASSISTANCE.—The term ''humanitarian assistance'' means assistance to meet humanitarian needs, including needs for food, medicine, medical supplies, clothing, and shelter.

(4) NORTH KOREA.—The term ''North Korea'' means the Democratic People's Republic of Korea.

(5) NORTH KOREANS.—The term ''North Koreans'' means persons who are citizens or nationals of North Korea.

(6) SOUTH KOREA.—The term ''South Korea'' means the Republic of Korea.

TITLE I—PROMOTING THE HUMAN RIGHTS OF NORTH KOREANS

SEC. 101. SENSE OF CONGRESS REGARDING NEGOTIATIONS WITH NORTH KOREA.

It is the sense of Congress that the human rights of North Koreans should remain a key element in future negotiations between the United States, North Korea, and other concerned parties in Northeast Asia.

SEC. 102. SUPPORT FOR HUMAN RIGHTS AND DEMOCRACY PROGRAMS.

(a) SUPPORT.—The President is authorized to provide grants to private, nonprofit organizations to support programs that promote human rights, democracy, rule of law, and the development of a market economy in North Korea. Such programs may include appropriate educational and cultural exchange programs with North Korean participants, to the extent not otherwise prohibited by law.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President $2,000,000 for each of the fiscal years 2005 through 2008 to carry out this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

SEC. 103. RADIO BROADCASTING TO NORTH KOREA.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States should facilitate the unhindered dissemination of information in North Korea by increasing its support for radio broadcasting to North Korea, and that the Broadcasting Board of Governors should increase broadcasts to North Korea from current levels, with a goal of providing 12-hour-per-day broadcasting to North Korea, including broadcasts by Radio Free Asia and Voice of America.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Broadcasting Board of Governors shall submit to the appropriate congressional committees a report that—

(1) describes the status of current United States broadcasting to North Korea; and

(2) outlines a plan for increasing such broadcasts to 12 hours per day, including a detailed description of the technical and fiscal requirements necessary to implement the plan.

SEC. 104. ACTIONS TO PROMOTE FREEDOM OF INFORMATION.

(a) ACTIONS.—The President is authorized to take such actions as may be necessary to increase the availability of information inside North Korea by increasing the availability of sources of information not controlled by the Government of North Korea, including sources such as radios capable of

receiving broadcasting from outside North Korea.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President $2,000,000 for each of the fiscal years 2005 through 2008 to carry out subsection (a).

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, and in each of the 3 years thereafter, the Secretary of State, after consultation with the heads of other appropriate Federal departments and agencies, shall submit to the appropriate congressional committees a report, in classified form, on actions taken pursuant to this section.

SEC. 105. UNITED NATIONS COMMISSION ON HUMAN RIGHTS.

It is the sense of Congress that the United Nations has a significant role to play in promoting and improving human rights in North Korea, and that—

(1) the United Nations Commission on Human Rights (UNCHR) has taken positive steps by adopting Resolution 2003/10 and Resolution 2004/13 on the situation of human rights in North Korea, and particularly by requesting the appointment of a Special Rapporteur on the situation of human rights in North Korea; and

(2) the severe human rights violations within North Korea warrant country-specific attention and reporting by the United Nations Working Group on Arbitrary Detention, the Working Group on Enforced and Involuntary Disappearances, the Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, the Special Rapporteur on the Right to Food, the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, the Special Rapporteur on Freedom of Religion or Belief, and the Special Rapporteur on Violence Against Women.

SEC. 106. ESTABLISHMENT OF REGIONAL FRAMEWORK.

(a) FINDINGS.—The Congress finds that human rights initiatives can be undertaken on a multilateral basis, such as the Organization for Security and Cooperation in Europe (OSCE), which established a regional framework for discussing human rights, scientific and educational cooperation, and economic and trade issues.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United Sates should explore the possibility of a regional human rights dialogue with North Korea that is modeled on the Helsinki process, engaging all countries in the region in a common commitment to respect human rights and fundamental freedoms.

SEC. 107. SPECIAL ENVOY ON HUMAN RIGHTS IN NORTH KOREA.

(a) SPECIAL ENVOY.—The President shall appoint a special envoy for human rights in North Korea within the Department of State (hereafter in this section referred to as the ''Special Envoy''). The Special Envoy should be a person of recognized distinction in the field of human rights.

(b) CENTRAL OBJECTIVE.—The central objective of the Special Envoy is to coordinate and promote efforts to improve respect for the fundamental human rights of the people of North Korea.

(c) DUTIES AND RESPONSIBILITIES.—The Special Envoy shall—

(1) engage in discussions with North Korean officials regarding human rights;

(2) support international efforts to promote human rights and political freedoms in North Korea, including coordination and dialogue between the United States and the United Nations, the European Union, North Korea, and the other countries in Northeast Asia;

(3) consult with non-governmental organizations who have attempted to address human rights in North Korea;

(4) make recommendations regarding the funding of activities authorized in section 102;

(5) review strategies for improving protection of human rights in North Korea, including technical training and exchange programs; and

(6) develop an action plan for supporting implementation of the United Nations Commission on Human Rights Resolution 2004/13.

(d) REPORT ON ACTIVITIES.—Not later than 180 days after the date of the enactment of this Act, and annually for the subsequent 5 year-period, the Special Envoy shall submit to the appropriate congressional committees a report on the activities undertaken in the preceding 12 months under subsection (c).

TITLE II—ASSISTING NORTH KOREANS IN NEED

SEC. 201. REPORT ON UNITED STATES HUMANITARIAN ASSISTANCE.

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, and in each of the 2 years thereafter, the Administrator of the United States Agency for International Development, in conjunction with the Secretary of State, shall submit to the appropriate congressional committees a report that describes—

(1) all activities to provide humanitarian assistance inside North Korea, and to North Koreans outside of North Korea, that receive United States funding;

(2) any improvements in humanitarian transparency, monitoring, and access inside North Korea during the previous 1-year period, including progress toward meeting the conditions identified in paragraphs (1) through (4) of section 202(b); and

(3) specific efforts to secure improved humanitarian transparency, monitoring, and access inside North Korea made by the United States and United States grantees, including the World Food Program, during the previous 1-year period.

(b) FORM.—The information required by subsection (a)(1) may be provided in classified form if necessary.

SEC. 202. ASSISTANCE PROVIDED INSIDE NORTH KOREA.

(a) HUMANITARIAN ASSISTANCE THROUGH NONGOVERNMENTAL AND INTERNATIONAL ORGANIZATIONS.—It is the sense of the Congress that—

(1) at the same time that Congress supports the provision of humanitarian assistance to the people of North Korea on humanitarian grounds, such assistance also should be provided and monitored so as to minimize the possibility that such assistance could be diverted to political or military use, and to maximize the likelihood that it will reach the most vulnerable North Koreans;

(2) significant increases above current levels of United States support for humanitarian assistance provided inside North Korea should be conditioned upon substantial improvements in transparency, monitoring, and access to vulnerable populations throughout North Korea; and

(3) the United States should encourage other countries that provide food and other humanitarian assistance to North Korea to do so through monitored, transparent channels, rather than through direct, bilateral transfers to the Government of North Korea.

(b) UNITED STATES ASSISTANCE TO THE GOVERNMENT OF NORTH KOREA.—It is the sense of Congress that—

(1) United States humanitarian assistance to any department, agency, or entity of the Government of North Korea shall—

(A) be delivered, distributed, and monitored according to internationally recognized humanitarian standards;

(B) be provided on a needs basis, and not used as a political reward or tool of coercion;

(C) reach the intended beneficiaries, who should be informed of the source of the assistance; and

(D) be made available to all vulnerable groups in North Korea, no matter where in the country they may be located; and

(2) United States nonhumanitarian assistance to North Korea shall be contingent on North Korea's substantial progress toward—

(A) respect for the basic human rights of the people of North Korea, including freedom of religion;

(B) providing for family reunification between North Koreans and their descendants and relatives in the United States;

(C) fully disclosing all information regarding citizens of Japan and the Republic of Korea abducted by the Government of North Korea;

(D) allowing such abductees, along with their families, complete and genuine freedom to leave North Korea and return to the abductees' original home countries;

(E) reforming the North Korean prison and labor camp system, and subjecting such reforms to independent international monitoring; and

(F) decriminalizing political expression and activity.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Agency for International Development shall submit to the appropriate congressional committees a report describing compliance with this section.

SEC. 203. ASSISTANCE PROVIDED OUTSIDE OF NORTH KOREA.

(a) ASSISTANCE.—The President is authorized to provide assistance to support organizations or persons that provide humanitarian assistance to North Koreans who are outside of North Korea without the permission of the Government of North Korea.

(b) TYPES OF ASSISTANCE.—Assistance provided under subsection (a) should be used to provide—

(1) humanitarian assistance to North Korean refugees, defectors, migrants, and orphans outside of North Korea, which may include support for refugee camps or temporary settlements; and

(2) humanitarian assistance to North Korean women outside of North Korea who are victims of trafficking, as defined in section 103(14) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(14)), or are in danger of being trafficked.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to funds otherwise available for such purposes, there are authorized to be appropriated to the President $20,000,000 for each of the fiscal years 2005 through 2008 to carry out this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

TITLE III—PROTECTING NORTH KOREAN REFUGEES

SEC. 301. UNITED STATES POLICY TOWARD REFUGEES AND DEFECTORS.

(a) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of State, in consultation with the heads of other appropriate Federal departments and agencies, shall submit to the appropriate congressional committees and the Committees on the Judiciary of the House of Representatives and the Senate a report that

describes the situation of North Korean refugees and explains United States Government policy toward North Korean nationals outside of North Korea.

(b) CONTENTS.—The report shall include—

(1) an assessment of the circumstances facing North Korean refugees and migrants in hiding, particularly in China, and of the circumstances they face if forcibly returned to North Korea;

(2) an assessment of whether North Koreans in China have effective access to personnel of the United Nations High Commissioner for Refugees, and of whether the Government of China is fulfilling its obligations under the 1951 Convention Relating to the Status of Refugees, particularly Articles 31, 32, and 33 of such Convention;

(3) an assessment of whether North Koreans presently have unobstructed access to United States refugee and asylum processing, and of United States policy toward North Koreans who may present themselves at United States embassies or consulates and request protection as refugees or asylum seekers and resettlement in the United States;

(4) the total number of North Koreans who have been admitted into the United States as refugees or asylees in each of the past five years;

(5) an estimate of the number of North Koreans with family connections to United States citizens; and

(6) a description of the measures that the Secretary of State is taking to carry out section 303.

(c) FORM.—The information required by paragraphs (1) through (5) of subsection (b) shall be provided in unclassified form. All or part of the information required by subsection (b)(6) may be provided in classified form, if necessary.

SEC. 302. ELIGIBILITY FOR REFUGEE OR ASYLUM CONSIDERATION.

(a) PURPOSE.—The purpose of this section is to clarify that North Koreans are not barred from eligibility for refugee status or asylum in the United States on account of any legal right to citizenship they may enjoy under the Constitution of the Republic of Korea. It is not intended in any way to prejudice whatever rights to citizenship North Koreans may enjoy under the Constitution of the Republic of Korea, or to apply to former North Korean nationals who have availed themselves of those rights.

(b) TREATMENT OF NATIONALS OF NORTH KOREA.—For purposes of eligibility for refugee status under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or for asylum under section 208 of such Act (8 U.S.C. 1158), a national of the Democratic People's Republic of Korea shall not be considered a national of the Republic of Korea.

SEC. 303. FACILITATING SUBMISSION OF APPLICATIONS FOR ADMISSION AS A REFUGEE.

The Secretary of State shall undertake to facilitate the submission of applications under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) by citizens of North Korea seeking protection as refugees (as defined in section 101(a)(42) of such Act (8 U.S.C. 1101(a)(42)).

SEC. 304. UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES.

(a) ACTIONS IN CHINA.—It is the sense of Congress that—

(1) the Government of China has obligated itself to provide the United Nations High Commissioner for Refugees (UNHCR) with unimpeded access to North Koreans inside its borders to enable the UNHCR to determine whether they are refugees and whether they require assistance, pursuant to the 1951 United Nations Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, and Article III, paragraph 5 of the 1995 Agreement on the Upgrading of the UNHCR Mission in the People's Republic of China to UNHCR Branch Office in the People's Republic of China (referred to in this section as the ''UNHCR Mission Agreement'');

(2) the United States, other UNHCR donor governments, and UNHCR should persistently and at the highest levels continue to urge the Government of China to abide by its previous commitments to allow UNHCR unimpeded access to North Korean refugees inside China;

(3) the UNHCR, in order to effectively carry out its mandate to protect refugees, should liberally employ as professionals or Experts on Mission persons with significant experience in humanitarian assistance work among displaced North Koreans in China;

(4) the UNHCR, in order to effectively carry out its mandate to protect refugees, should liberally contract with appropriate nongovernmental organizations that have a proven record of providing humanitarian assistance to displaced North Koreans in China;

(5) the UNHCR should pursue a multilateral agreement to adopt an effective ''first asylum'' policy that guarantees safe haven and assistance to North Korean refugees; and

(6) should the Government of China begin actively fulfilling its obligations toward North Korean refugees, all countries, including the United States, and relevant international organizations should increase levels of humanitarian assistance provided inside China to help defray costs associated with the North Korean refugee presence.

(b) ARBITRATION PROCEEDINGS.—It is further the sense of Congress that—

(1) if the Government of China continues to refuse to provide the UNHCR with access to North Koreans within its borders, the UNHCR should initiate arbitration proceedings pursuant to Article XVI of the UNHCR Mission Agreement and appoint an arbitrator for the UNHCR; and

(2) because access to refugees is essential to the UNHCR mandate and to the purpose of a UNHCR branch office, a failure to assert those arbitration rights in present circumstances would constitute a significant abdication by the UNHCR of one of its core responsibilities.

SEC. 305. ANNUAL REPORTS.

(a) IMMIGRATION INFORMATION.—Not later than 1 year after the date of the enactment of this Act, and every 12 months thereafter for each of the following 5 years, the Secretary of State and the Secretary of Homeland Security shall submit a joint report to the appropriate congressional committees and the Committees on the Judiciary of the House of Representatives and the Senate on the operation of this title during the previous year, which shall include—

(1) the number of aliens who are nationals or citizens of North Korea who applied for political asylum and the number who were granted political asylum; and

(2) the number of aliens who are nationals or citizens of North Korea who applied for refugee status and the number who were granted refugee status.

(b) COUNTRIES OF PARTICULAR CONCERN.—The President shall include in each annual report on proposed refugee admission pursuant to section 207(d) of the Immigration and Nationality Act (8 U.S.C. 1157(d)), information about specific measures taken to facilitate access to the United States refugee program for individuals who have fled countries of particular concern for violations of religious freedom, identified pursuant to section 402(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6442(b)). The report shall include, for each country of particular concern, a description of access of the nationals or former habitual residents of that country to a refugee determination on the basis of—

(1) referrals by external agencies to a refugee adjudication;

(2) groups deemed to be of special humanitarian concern to the United States for purposes of refugee resettlement; and

(3) family links to the United States.

SA 3729. Mr. FRIST (for Mr. HATCH (for himself and Mr. LEAHY)) submitted an amendment intended to be proposed by Mr. FRIST to the bill S. 2742, to extend certain authority of the Supreme Court Police, modify the venue of prosecutions relating to the Supreme Court building and grounds, and authorize the acceptance of gifts to the United States Supreme Court; as follows:

On page 2, lines 22 and 23, strike ''for the purpose of aiding or facilitating the work of the United States Supreme Court,'' and insert ''pertaining to the history of the United States Supreme Court or its justices,''.

SA 3730. Mr. KYL (for himself, Mr. DOMENICI, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 437, to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River Indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes; which was ordered to lie on the table; as follows:

In the table of contents, insert after the item relating to section 402 the following:

Sec. 403. Authorization of appropriations.

In section 2(26)(B)(ii), insert ''consistent with section 203(a) or as approved by the Secretary'' before the period at the end.

In section 3, strike subsections (a) and (b) and insert the following:

(a) NO PARTICIPATION BY THE UNITED STATES.—

(1) IN GENERAL.—No arbitration decision rendered pursuant to subparagraph 12.1 of the UVD agreement or exhibit 20.1 of the Gila River agreement (including the joint control board agreement attached to exhibit 20.1) shall be considered invalid solely because the United States failed or refused to participate in such arbitration proceedings that resulted in such arbitration decision, so long as the matters in arbitration under subparagraph 12.1 of the UVD agreement or exhibit 20.1 of the Gila River Agreement concern aspects of the water rights of the Community, the San Carlos Irrigation Project, or the Miscellaneous Flow Lands (as defined in subparagraph 2.18A of the UVD agreement) and not the water rights of the United States in its own right, any other rights of the United States, or the water rights or any other rights of the United States acting on behalf of or for the benefit of another tribe.

(2) ARBITRATION INEFFECTIVE.—If an issue otherwise subject to arbitration under subparagraph 12.1 of the UVD agreement or exhibit 20.1 of the Gila River Agreement cannot be arbitrated or if an arbitration decision will not be effective because the United States cannot or will not participate in the arbitration, then the issue shall be submitted for decision to a court of competent jurisdiction, but not a court of the Community.

(b) PARTICIPATION BY THE SECRETARY.—Notwithstanding any provision of any agreement, exhibit, attachment, or other document ratified by this Act, if the Secretary is required to enter arbitration pursuant to this Act or any such document, the Secretary shall follow the procedures for arbitration established by chapter 5 of title 5, United States Code.

In section 403(f)(2)(A) of the Colorado River Basin Project Act (as amended by section 107(a) of the Committee amendment), insert ''in accordance with clause 8(d)(i)(1)(i) of the Repayment Stipulation (as defined in section 2 of the Arizona Water Settlements Act)'' before the semicolon at the end;

In section 403(f)(2)(D) of the Colorado River Basin Project Act (as amended by section 107(a) of the Committee amendment), strike clauses (vi) and (vii) and insert the following:

''(vi) to pay a total of not more than $250,000,000 to the credit of the Future Indian Water Settlement Subaccount of the Lower Colorado Basin Development Fund, for use for Indian water rights settlements in Arizona approved by Congress after the date of enactment of this Act, subject to the requirement that, notwithstanding any other provision of this Act, any funds credited to the Future Indian Water Settlement Subaccount that are not used in furtherance of a congressionally approved Indian water rights settlement in Arizona by December 31, 2030, shall be returned to the main Lower Colorado Basin Development Fund for expenditure on authorized uses pursuant to this Act, provided that any interest earned on funds held in the Future Indian Water Settlement Subaccount shall remain in such subaccount until disbursed or returned in accordance with this section;

''(vii) to pay costs associated with the installation of gages on the Gila River and its tributaries to measure the water level of the Gila River and its tributaries for purposes of the New Mexico Consumptive Use and Forbearance Agreement in an amount not to exceed $500,000; and

''(viii) to pay the Secretary's costs of implementing the Central Arizona Project Settlement Act of 2004;

In section 107(c), strike paragraphs (1) through (4) and insert the following:

(1) in section 403(g), by striking ''clause (c)(2)'' and inserting ''subsection (c)(2)''; and

(2) in section 403(e), by deleting the first word and inserting ''Except as provided in subsection (f), revenues''.

In section 203(c), strike paragraphs (1) and (2) and insert the following:

(1) ENVIRONMENTAL COMPLIANCE.—In implementing the Gila River agreement, the Secretary shall promptly comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all other applicable environmental Acts and regulations.

(2) EXECUTION OF THE GILA RIVER AGREEMENT.—Execution of the Gila River agreement by the Secretary under this section shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance required by Federal law in implementing the Gila River agreement.

In section 203(d)(4)(B), strike clause (i) and insert the following:

(i) in accomplishing the work under the supplemental repayment contract—

(I) the San Carlos Irrigation and Drainage District—

(aa) may use locally accepted engineering standards and the labor and contracting authorities that are available to the District under State law; and

(bb) shall be subject to the value engineering program of the Bureau of Reclamation established pursuant to OMB Circular A–131; and

(II) in accordance with FAR Part 48.101(b), the incentive returned to the contractor through this ''Incentive Clause'' shall be 55 percent after the Contractor is reimbursed for the allowable costs of developing and implementing the proposal and the Government shall retain 45 percent of such savings in the form of reduced expenditures;

In section 204(a)(4)(B), strike ''or the United States''.

In section 207(a)(4)(A), strike clauses (iv) and (v) and insert the following:

(iv)(I) past and present claims for subsidence damage occurring to land within the exterior boundaries of the Reservation, off-Reservation trust land, or fee land arising from time immemorial through the enforceability date; and

(II) claims for subsidence damage arising after the enforceability date occurring to land within the exterior boundaries of the Reservation, off-Reservation trust land or fee land resulting from the diversion of underground water in a manner not in violation of the Gila River agreement or applicable law;

(v) past and present claims for failure to protect, acquire, or develop water rights for or on behalf of the Community and Community members arising before December 31, 2002; and

(vi) past, present, and future claims relating to failure to assert any claims expressly waived pursuant to section 207(a)(1) (C) through (E).

In section 207(a)(5)(A)(ii)(I), insert ''injuries to'' after ''claims for''.

In section 207(a)(5)(A)(iii)(I), insert ''for injuries to water rights'' after ''claims''.

In section 207(a)(5)(B)(iii)(I), insert ''for injuries to water rights'' after ''claims''.

In the matter preceding clause (i) of section 207(a)(5)(C), strike ''and the extent'' and all that follows through ''Globe Equity Decree'' and insert the following: ''and to the extent the United States holds legal title to (but not the beneficial interest in) the water rights as described in article V or VI of the Globe Equity Decree (but not on behalf of the San Carlos Apache Tribe pursuant to article VI(2) of the Globe Equity Decree)''.

In section 207(a)(5)(C)(iii)(I), insert ''for injuries to water rights'' after ''claims''.

In section 212(h), strike paragraphs (1) and (2) and insert the following:

(1) ENVIRONMENTAL COMPLIANCE.—Upon execution of the New Mexico Consumptive Use and Forbearance Agreement and the New Mexico Unit Agreement, the Secretary shall promptly comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all other applicable environmental Acts and regulations.

(2) EXECUTION OF THE NEW MEXICO CONSUMPTIVE USE AND FORBEARANCE AGREEMENT AND THE NEW MEXICO UNIT AGREEMENT.—Execution of the New Mexico Consumptive Use and Forbearance Agreement and the New Mexico Unit Agreement by the Secretary under this section shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance required by Federal law in implementing the New Mexico Consumptive Use and Forbearance Agreement and the New Mexico Unit Agreement.

In section 309(h)(3) of the Southern Arizona Water Rights Settlement Act of 1982 (as amended by section 301 of the Committee amendment), strike subparagraphs (A) and (B) and insert the following:

''(A) ENVIRONMENTAL COMPLIANCE.—In implementing an agreement described in paragraph (2), the Secretary shall promptly comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all other applicable environmental Acts and regulations.

''(B) EXECUTION OF AGREEMENT.—Execution of an agreement described in paragraph (2) by the Secretary under this section shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance required by Federal law in implementing an agreement described in paragraph (2).

Strike section 401 and insert the following:

SEC. 401. EFFECT OF TITLES I, II, AND III.

None of the provisions of title I, II, or III or the agreements, attachments, exhibits, or stipulations referenced in those titles shall be construed to—

(1) amend, alter, or limit the authority of—

(A) the United States to assert any claim against any party, including any claim for water rights, injury to water rights, or injury to water quality in its capacity as trustee for the San Carlos Apache Tribe, its members and allottees, or in any other capacity on behalf of the San Carlos Apache Tribe, its members, and allottees, in any judicial, administrative, or legislative proceeding; or

(B) the San Carlos Apache Tribe to assert any claim against any party, including any claim for water rights, injury to water rights, or injury to water quality in its own behalf or on behalf of its members and allottees in any judicial, administrative, or legislative proceeding consistent with title XXXVII of Public Law 102–575 (106 Stat. 4600, 4740); or

(2) amend or alter the CAP Contract for the San Carlos Apache Tribe dated December 11, 1980, as amended April 29, 1999.

At the end, add the following:

SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

(a) SAN CARLOS APACHE TRIBE.—There is authorized to be appropriated to assist the San Carlos Apache Tribe in completing comprehensive water resources negotiations leading to a comprehensive Gila River water settlement for the Tribe, including soil and water technical analyses, legal, paralegal, and other related efforts, $150,000 for fiscal year 2006.

(b) WHITE MOUNTAIN APACHE TRIBE.—There is authorized to be appropriated to assist the White Mountain Apache Tribe in completing comprehensive water resources negotiations leading to a comprehensive water settlement for the Tribe, including soil and water technical analyses, legal, paralegal, and other related efforts, $150,000 for fiscal year 2006.

(c) OTHER ARIZONA INDIAN TRIBES.—There is authorized to be appropriated to the Secretary to assist Arizona Indian tribes (other than those specified in subsections (a) and (b)) in completing comprehensive water resources negotiations leading to a comprehensive water settlement for the Arizona Indian tribes, including soil and water technical analyses, legal, paralegal, and other related efforts, $300,000 for fiscal year 2006.

(d) NO LIMITATION ON OTHER FUNDING.—Amounts made available under subsections (a), (b), and (c) shall not limit, and shall be in addition to, other amounts available for Arizona tribal water rights negotiations leading to comprehensive water settlements.

SA 3731. Ms. COLLINS (for Mr. INHOFE (for himself and Mr. JEFFORDS)) proposed an amendment 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; as follows:

In section 406 of the amendment, redesignate subsections (i) and (j) as subsections (j) and (k), respectively.

In section 406 of the amendment, insert after subsection (h) the following:

(i) PARTICIPATION OF UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.—

(1) PARTICIPATION.—The Under Secretary for Emergency Preparedness and Response shall participate in the grantmaking process for the Threat-Based Homeland Security Grant Program for nonlaw enforcement-related grants in order to ensure that preparedness grants where appropriate, are consistent, and are not in conflict, with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) REPORTS.—The Under Secretary for Emergency Preparedness and Response shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual report that describes—

(A) the status of the Threat-Based Homeland Security Grant Program; and

(B) the impact of that program on programs authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

SA 3732. Ms. COLLINS (for Mr. LEVIN (for himself and Ms. COLLINS)) proposed an amendment 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; as follows:

On page 36, strike lines 3 through 21, and insert the following:

SEC. 409. CERTIFICATION RELATIVE TO THE SCREENING OF MUNICIPAL SOLID WASTE TRANSPORTED INTO THE UNITED STATES.

(a) DEFINED TERM.—In this section, the term ''municipal solid waste'' includes sludge (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)).

(b) REPORTS TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Bureau of Customs and Border Protection of the Department of Homeland Security shall submit a report to Congress that—

(1) indicates whether the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in municipal solid waste are as effective as the methodologies and technologies used by the Bureau to screen for such materials in other items of commerce entering into the United States by commercial motor vehicle transport; and

(2) if the methodologies and technologies used to screen solid waste are less effective than those used to screen other commercial items, identifies the actions that the Bureau will take to achieve the same level of effectiveness in the screening of solid waste, including the need for additional screening technologies.

(c) IMPACT ON COMMERCIAL MOTOR VEHICLES.—If the Bureau of Customs and Border Protection fails to fully implement the actions described in subsection (b)(2) before the earlier of 6 months after the date on which the report is due under subsection (b) or 6 months after the date on which such report is submitted, the Secretary of Homeland Security shall deny entry into the United States of any commercial motor vehicle (as defined in section 31101(1) of title 49, United States Code) carrying municipal solid waste until the Secretary certifies to Congress that the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in such waste are as effective as the methodologies and technologies used by the Bureau to screen for such materials in other items of commerce entering into the United States by commercial motor vehicle transport.

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

SA 3733. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. UTILIZATION OF COMMERCIAL AND OTHER DATABASES.

(a) LIMITATION.—(1) Notwithstanding any other provision of law, no element of the intelligence community may conduct a search or other analysis for national security or intelligence purposes of a database based solely on a hypothetical scenario or hypothetical supposition of who may pose a threat to national security.

(2) The limitation in paragraph (1) shall not be construed to endorse or allow any other activity that involves use or access of databases referred to in subsection (b)(2)(A).

(b) REPORT ON USE OF DATABASES.—(1) The National Intelligence Director shall prepare, submit to the appropriate committees of Congress, and make available to the public a report, in writing, containing a detailed description of any use by any element of the intelligence community of any database that was obtained from or remain under the control of a non-Federal entity, or that contain information that was acquired initially by another department, agency, or element of the United States Government for purposes other than national security or intelligence purposes, regardless of whether any compensation was paid for such database.

(2) The report under paragraph (1) shall include—

(A) a list of all contracts, memoranda of understanding, or other agreements entered into by element of the intelligence community for the use of, access to, or analysis of any database that was obtained from or remain under the control of a non-Federal entity, or that contain information that was acquired initially by another department, agency, or element of the United States Government for purposes other than national security or intelligence purposes;

(B) the duration and dollar amount of such contracts;

(C) the types of data contained in each database referred to in subparagraph (A);

(D) the purposes for which each such database is used, analyzed, or accessed;

(E) the extent to which each such database is used, analyzed, or accessed;

(F) the extent to which information from each such database is retained by any element of the intelligence community, including how long the information is retained and for what purpose;

(G) a thorough description, in unclassified form, of any methodologies being used or developed by the element of the intelligence community concerned, to search, access, or analyze any such database;

(H) an assessment of the likely efficacy of such methodologies in identifying or locating criminals, terrorists, or terrorist groups, and in providing practically valuable predictive assessments of the plans, intentions, or capabilities of terrorists, or terrorist groups;

(I) a thorough discussion of the plans for the use of such methodologies;

(J) a thorough discussion of the activities of the personnel, if any, of the department, agency, or element concerned while assigned to the National Counterterrorism Center; and

(K) a thorough discussion of the policies, procedures, guidelines, regulations, and laws, if any, that have been or will be applied in the access, analysis, or other use of the databases referred to in subparagraph (A), including—

(i) the personnel permitted to access, analyze, or otherwise use such databases;

(ii) standards governing the access, analysis, or use of such databases;

(iii) any standards used to ensure that the personal information accessed, analyzed, or used is the minimum necessary to accomplish the intended legitimate Government purpose;

(iv) standards limiting the retention and redisclosure of information obtained from such databases;

(v) procedures ensuring that such data meets standards of accuracy, relevance, completeness, and timeliness;

(vi) the auditing and security measures to protect against unauthorized access, analysis, use, or modification of data in such databases;

(vii) applicable mechanisms by which individuals may secure timely redress for any adverse consequences wrongfully incurred due to the access, analysis, or use of such databases;

(viii) mechanisms, if any, for the enforcement and independent oversight of existing or planned procedures, policies, or guidelines; and

(ix) an outline of enforcement mechanisms for accountability to protect individuals and the public against unlawful or illegitimate access or use of databases.

(c) DEFINITIONS.—In this section:

(1) The term ''appropriate committees of Congress'' means—

(A) the Select Committee on Intelligence and the Committee on the Judiciary of the Senate; and

(B) the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

(2) The term ''database'' means any collection or grouping of information about individuals that contains personally identifiable information about individuals, such as individual's names, or identifying numbers, symbols, or other identifying particulars associated with individuals, such as fingerprints, voice prints, photographs, or other biometrics. The term does not include telephone directories or information publicly available on the Internet without fee.

SA 3734. 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 _____

SECTION 1. SHORT TITLE.

This title 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 '', related to the bombings of United States embassies in East Africa on August 7, 1998, related to the attack on the U.S.S. Cole on October 12, 2000, or related to the attack on the World Trade Center on February 26, 1993'' before the period.

(b) PURPOSE.—Section 403 is amended by inserting '' or killed as a result 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'' 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 '', 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'' before the semicolon;

(B) in clause (ii), by inserting ''or bombings'' before the semicolon; and

(C) in clause (iii), by inserting ''or bombings'' 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 '', 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'' before the period.

(4) ELIGIBILITY.—

(A) INDIVIDUALS.—Section 405(c)(2)(A) is amended—

(i) in clause (i), by inserting '', was present at the United States Embassy in Nairobi, Kenya, or the United States Embassy in Dar es Salaam, Tanzania, at the time, or in the immediate aftermath, of the bombings of United States embassies in East Africa on August 7, 1998, was on the U.S.S. Cole on October 12, 2000, or was present at the World Trade Center on February 26, 1993 at the time of the bombings of that building'' 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 a bombing;''.

(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 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. 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 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.

''(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 BOMBINGS OF UNITED STATES EMBASSIES IN EAST AFRICA.—An individual who suffered death as a result of a bombing or attack described in subparagraph (C)(i) shall not be an eligible individual by reason of that bombing or 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 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.''.

(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 3735. 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.—

(1) PLAN.—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.

(2) SOURCE OF SPECTRUM.—The spectrum dedicated under paragraph (1)—

(A) may be reclaimed from existing Federal, State, or local public safety users;

(B) may be comprised of spectrum which is not currently being utilized; or

(C) may be comprised of any combination of spectrum described in subparagraphs (A) and (B).

(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 3736. Mr. ROBERTS 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 4, strike lines 10 through 16 and insert the following:

(3) The term ''counterintelligence'' means information gathered, and activities conducted to protect against—

(A) international terrorist activities;

(B) espionage, economic espionage, other intelligence activities, the proliferation of

weapons of mass destruction, racketeering, international narcotics trafficking, unauthorized computer access, sabotage, or assassination conducted by or on behalf of any foreign government or element thereof, foreign organization, or foreign person; or

(C) any other criminal activities involved in or related to such threats to the national security.

On page 6, strike lines 7 through 18 and insert the following:

(5) The terms ''national intelligence'' and ''intelligence related to the national security'' each refer to all intelligence (regardless of the source from which derived, including information gathered within or without the United States) that pertains to more than one department or agency of the United States Government and that involves—

(A) threats to the United States, its people, property, or interests;

(B) activities associated with the development, proliferation, or use of weapons of mass destruction; or

(C) any other matter bearing on the national security or homeland security of the United States.

On page 196, beginning on line 20, strike ''**FOREIGN INTELLIGENCE AND COUNTERINTELLIGENCE**'' and insert ''**FOREIGN INTELLIGENCE, COUNTERINTELLIGENCE, AND NATIONAL INTELLIGENCE**''.

On page 197, strike lines 4 through 7 and insert the following:

(2) by striking paragraph (3) and inserting the following new paragraph (3):

''(3) The term 'counterintelligence' means information gathered, and activities conducted to protect against—

''(A) international terrorist activities;

''(B) espionage, economic espionage, other intelligence activities, the proliferation of weapons of mass destruction, racketeering, international narcotics trafficking, unauthorized computer access, sabotage, or assassination conducted by or on behalf of any foreign government or element thereof, foreign organization, or foreign person; or

''(C) any other criminal activities involved in or related to such threats to the national security.''; and

(3) by striking paragraph (5) and insert the following new paragraph (5):

''(5) The terms 'national intelligence' and 'intelligence related to the national security' each refer to all intelligence (regardless of the source from which derived, including information gathered within or without the United States) that pertains to more than one department or agency of the United States Government and that involves—

''(A) threats to the United States, its people, property, or interests;

''(B) activities associated with the development, proliferation, or use of weapons of mass destruction; or

''(C) any other matter bearing on the national security or homeland security of the United States.''.

SA 3737. Mr. ROBERTS 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 lines 21 through 23 and insert the following:

(A)(i) refers to all national intelligence programs, projects, and activities of the elements of the intelligence community, including (but not limited to) all programs, projects, and activities of the elements of the intelligence community that are within the National Foreign Intelligence Program as of the date of the enactment of this Act;

SA 3738. Mr. ROBERTS 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, beginning on line 18, strike '', including any program, project, or activity of the Defense Intelligence Agency that is not part of the National Foreign Intelligence Program as of the date of the enactment of this Act,''.

SA 3739. Mr. ROBERTS 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 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 productions, 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, between lines 3 and 4, insert the following:

(16) ensure that intelligence (including unevaluated intelligence), the source of such intelligence, and the method used to collect such intelligence is disseminated in a timely and efficient manner that promotes comprehensive all-source analysis by appropriately cleared officers and employees of the United States Government, notwithstanding the element of the intelligence community that collected such intelligence or the location of such collection;

On page 18, line 4, strike ''(14)'' and insert ''(17)''.

On page 18, line 7, strike ''(15)'' and insert ''(18)''.

On page 18, line 14, strike ''(16)'' and insert ''(19)''.

On page 18, line 17, strike ''(17)'' and insert ''(20)''.

On page 18, line 20, strike ''(18)'' and insert ''(21)''.

On page 19, line 5, strike ''(19)'' and insert ''(22)''.

On page 19, line 7, strike ''(20)'' and insert ''(23)''.

On page 20, strike lines 12 through 14 and insert the following:

shall have access to all intelligence and, consistent with subsection (k), any other information which is collected by, possessed by, or under the control of any department, agency, or other element of the United States Government when necessary to carry out the duties and responsibilities of the Director under this Act or any other provision of law.

On page 31, line 1, strike ''112(a)(16)'' and insert ''112(a)(19)''.

On page 31, strike line 22 and insert the following:

ensures information-sharing, including direct, continuous, and automated access to unevaluated intelligence data in its earliest understandable form.

On page 32, beginning on line 3, strike ''information-sharing'' and all that follows through line 4 and insert ''information-sharing, including direct, continuous, and automated access to unevaluated intelligence data in its earliest understandable form.''.

On page 32, line 16, insert ''AND ANALYSIS'' after ''COLLECTION''.

On page 32, line 19, insert ''and analysis'' after ''collection''.

On page 32, beginning on line 21, strike ''the head of each element of the intelligence community'' and insert ''the head of any department, agency, or element of the United States Government, and the components and programs thereof,''.

On page 56, line 20, strike ''(15) and (16)'' and insert ''(18) and (19)''.

On page 194, line 9, strike ''112(a)(11)'' and insert ''112(a)(13)''.

On page 195, line 16, strike ''112(a)(11)'' and insert ''112(a)(13)''.

On page 195, line 23, strike ''112(a)(11)'' and insert ''112(a)(13)''.

On page 196, line 7, strike ''112(a)(11)'' and insert ''112(a)(13)''.

SA 3740. Mr. ROBERTS 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 9 line 13, insert ''and intelligence'' after ''counterterrorism''.

SA 3741. Mr. ROBERTS 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 23, line 1, strike ''may require modifications'' and insert ''may modify, or may require modifications,''.

SA 3742. Mr. ROBERTS 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'' and insert ''and''.

On page 33, between lines 2 and 3, insert the following:

SEC. 114. FUNDING OF INTELLIGENCE ACTIVITIES.

(a) FUNDING OF ACTIVITIES.—(1) Notwithstanding any other provision of law, appropriated funds available to an intelligence agency may be obligated or expended for an intelligence or intelligence-related activity only if—

(A) those funds were specifically authorized by the Congress for use for such activities;

(B) in the case of funds from the Reserve for Contingencies of the National Intelligence Director, and consistent with the

provisions of section 503 of the National Security Act of 1947 (50 U.S.C. 413b) concerning any significant anticipated intelligence activity, the National Intelligence Director has notified the appropriate congressional committees of the intent to make such funds available for such activity; or

(C) in the case of funds specifically authorized by the Congress for a different activity—

(i) the activity to be funded is a higher priority intelligence or intelligence-related activity; and

(ii) the National Intelligence Director, the Secretary of Defense, or the Attorney General, as appropriate, has notified the appropriate congressional committees of the intent to make such funds available for such activity.

(2) Nothing in this subsection prohibits the obligation or expenditure of funds available to an intelligence agency in accordance with sections 1535 and 1536 of title 31, United States Code.

(b) APPLICABILITY OF OTHER AUTHORITIES.—Notwithstanding any other provision of this Act, appropriated funds available to an intelligence agency may be obligated or expended for an intelligence, intelligence-related, or other activity only if such obligation or expenditure is consistent with subsections (b), (c), and (d) of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

(c) DEFINITIONS.—In this section:

(1) The term ''intelligence agency'' means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities.

(2) The term ''appropriate congressional committees'' means—

(A) the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives; and

(B) the Select Committee on Intelligence and the Committee on Appropriations of the Senate.

(3) The term ''specifically authorized by the Congress'' means that—

(A) the activity and the amount of funds proposed to be used for that activity were identified in a formal budget request to the Congress, but funds shall be deemed to be specifically authorized for that activity only to the extent that the Congress both authorized the funds to be appropriated for that activity and appropriated the funds for that activity; or

(B) although the funds were not formally requested, the Congress both specifically authorized the appropriation of the funds for the activity and appropriated the funds for the activity.

On page 33, line 3, strike ''**114.**'' and insert ''**115.**''.

On page 35, line 1, strike ''**115.**'' and insert ''**116.**''.

On page 38, line 21, strike ''**116.**'' and insert ''**117.**''.

On page 40, line 10, strike ''**117.**'' and insert ''**118.**''.

On page 43, line 1, strike ''**118.**'' and insert ''**119.**''.

On page 200, between line 18 and 19, insert the following:

SEC. 309. CONFORMING AMENDMENT ON FUNDING OF INTELLIGENCE ACTIVITIES.

Section 504(a)(3) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)) is amended—

(1) in subparagraph (A), by adding ''and'' at the end;

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

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 3743. Mr. ROBERTS 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 32, beginning on line 8, strike ''oversee and direct'' and all that follows through line 10 and insert ''direct and coordinate''.

On page 32, between lines 19 and 20, insert the following:

(k) HUMAN INTELLIGENCE OVERSIGHT AND COORDINATION.—The National Intelligence Director shall—

(1) ensure the efficient and effective collection of national intelligence through human sources;

(2) provide overall direction for and coordinate the collection of national intelligence through human sources by elements of the intelligence community authorized to undertake such collection; and

(3) coordinate with other departments, agencies, and elements of the United States Government which are authorized to undertake such collection and ensure that the most effective use is made of the resources of such departments, agencies, and elements with respect to such collection, and resolve operational conflicts regarding such collection.

On page 32, line 20, strike ''(k)'' and insert ''(l)''.

On page 43, after line 20, add the following:

(e) TERMINATION.—Upon the transfer under subsection (d) of all unobligated balances of the Reserve for Contingencies of the Central Intelligence Agency, the Reserve for Contingencies of the Central Intelligence Agency shall be terminated.

On page 179, strike lines 1 through 4 and insert the following:

''(b) SUPERVISION.—(1) The Director of the Central Intelligence Agency shall be under the direction, supervision, and control of the National Intelligence Director.

''(2) The Director of the Central Intelligence Agency shall report directly to the National Intelligence Director regarding the activities of the Central Intelligence Agency.

On page 179, line 20, add ''and'' at the end.

On page 179, strike line 21 and all that follows through page 180, line 6.

On page 180, line 7, strike ''(4)'' and insert ''(3)''.

On page 181, strike lines 1 through 10.

SA 3744. Mr. ROBERTS 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'' and insert ''and''.

On page 112, beginning on line 12, strike ''Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives'' and insert ''Select Committee on Intelligence and the Committee on Governmental Affairs of the Senate and the Permanent Select Committee on Intelligence and the Committee on Government Reform of the House of Representatives''.

On page 172, strike line 18 and all that follows through page 174, line 23, and insert the following:

SEC. 224. COMMUNICATIONS WITH CONGRESS.

SA 3745. Mr. ROBERTS 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 42, strike lines 4 through 9 and insert the following:

(B) The Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection.

(C) The Assistant Secretary of State for Intelligence and Research.

(D) The Assistant Secretary for Intelligence and Analysis of the Department of the Treasury.

(E) The Assistant Secretary for Terrorist Financing of the Department of the Treasury.

(F) The Director of the Defense Intelligence Agency.

(G) The Executive Assistant Director for Intelligence of the Federal Bureau of Investigation.

(H) The Executive Assistant Director for Counterterrorism and Counterintelligence of the Federal Bureau of Investigation.

(I) The Director of the Office of Intelligence of the Department of Energy.

(J) The Director of the Office of Counterintelligence of the Department of Energy.

(K) The Assistant Commandant of the Coast Guard for Intelligence.

SA 3746. Mr. ROBERTS 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 32, between lines 19 and 20, insert the following:

(k) TERMINATION OR REASSIGNMENT OF OFFICERS AND EMPLOYEES WITHIN NATIONAL INTELLIGENCE PROGRAM.—(1)(A) Notwithstanding any other provision of law, the National Intelligence Director may, at the discretion of the Director, terminate the employment of any civilian officer or employee of any element of the intelligence community within the National Intelligence Program whenever the Director considers the termination of employment of such officer or employee necessary or advisable in the interests of the United States.

(B) Any termination of employment of an officer or employee under subparagraph (A) shall not affect the right of the officer or employee to seek or accept employment in any department or agency of the United States Government if declared eligible for such employment by the Office of Personnel Management.

(2) The Secretary of Defense shall, upon the request of the Director, reassign any member of the Armed Forces serving in a position in an element of the intelligence community within the National Intelligence Program to a position outside the National Intelligence Program whenever the Director considers the reassignment of such member necessary or advisable in the interests of the United States.

(3) Before taking any action under paragraph (1) or (2), the Director shall provide reasonable notice to the head of the element

of the intelligence community to which the civilian officer or employee concerned, or member of the Armed Forces concerned, is assigned. The head of the element of the intelligence community concerned may recommend alternative actions to termination or reassignment, and the Director may take such recommendations into account in taking any such action.

(4) The Director may delegate an authority of the Director under this subsection only to the Principal Deputy National Intelligence Director.

(5) Any action of the Director, or the delegee of the Director, under this subsection shall not be subject to judicial review.

On page 32, line 20, strike ''(k)'' and insert ''(l)''.

SA 3747. Mr. ROBERTS 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 43, after line 20, add the following:

SEC. 119. ADMINISTRATIVE AUTHORITIES.

(a) EXERCISE OF ADMINISTRATIVE AUTHORITIES.—Notwithstanding any other provision of law, the National Intelligence Director may exercise with respect to the National Intelligence Authority any authority of the Director of the Central Intelligence Agency with respect to the Central Intelligence Agency under a provision of the Central Intelligence Agency Act of 1949 specified in subsection (c).

(b) DELEGATION OF ADMINISTRATIVE AUTHORITIES.—Notwithstanding any other provision of law, the National Intelligence Director may delegate to the head of any other element of the intelligence community with a program, project, or activity within the National Intelligence Program for purposes of such program, project or activity any authority of the Director of the Central Intelligence Agency with respect to the Central Intelligence Agency under a provision of the Central Intelligence Agency Act of 1949 specified in subsection (c).

(c) SPECIFIED AUTHORITIES.—The authorities of the Director of the Central Intelligence Agency specified in this subsection are the authorities under the Central Intelligence Agency Act of 1949 as follows:

(1) Section 3 (50 U.S.C. 403c), relating to procurement.

(2) Section 4 (50 U.S.C. 403e), relating to travel allowances and related expenses.

(3) Section 5 (50 U.S.C. 403f), relating to administration of funds.

(4) Section 6 (50 U.S.C. 403g), relating to exemptions from certain information disclosure requirements.

(5) Section 8 (50 U.S.C. 403j), relating to availability of appropriations.

(6) Section 11 (50 U.S.C. 403k), relating to payment of death gratuities.

(7) Section 12 (50 U.S.C. 403l), relating to acceptance of gifts, devises, and bequests.

(8) Section 21 (50 U.S.C. 403u), relating to operation of a central services program.

(d) EXERCISE OF DELEGATED AUTHORITY.—Notwithstanding any other provision of law, the head of an element of the intelligence community delegated an authority under subsection (b) with respect to a program, project, or activity may exercise such authority with respect to such program, project, or activity to the same extent that the Director of the Central Intelligence Agency may exercise such authority with respect to the Central Intelligence Agency.

On page 108, line 12, strike ''(1)''.

On page 108, line 19, strike ''(2)'' and insert ''(b) DEPOSIT OF PROCEEDS.—''.

On page 108, strike line 23 and all that follows through page 109, line 3.

SA 3748. Mr. ROBERTS 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 19, insert ''regular and detailed'' before ''reviews''.

On page 79, strike lines 1 and 2 and insert the following:

political considerations, based upon all sources available to the intelligence community, and performed in a manner consistent with sound analytic methods and tradecraft, including reviews for purposes of determining whether or not—

(A) such product or products state separately, and distinguish between, the intelligence underlying such product or products and the assumptions and judgments of analysts with respect to the intelligence and such product or products;

(B) such product or products describe the quality and reliability of the intelligence underlying such product or products;

(C) such product or products present and explain alternative conclusions, if any, with respect to the intelligence underlying such product or products;

(D) such product or products characterizes the uncertainties, if any, and the confidence in such product or products; and

(E) the analyst or analysts responsible for such product or products had appropriate access to intelligence information from all sources, regardless of the source of the information, the method of collection of the information, the elements of the intelligence community that collected the information, or the location of such collection.

On page 80, line 1, insert ''(A)'' after ''(5)''.

On page 80, line 3, strike '', upon request,''.

On page 80, between lines 5 and 6, insert the following:

(B) The results of the evaluations under paragraph (4) shall also be distributed as appropriate throughout the intelligence community as a method for training intelligence community analysts and promoting the development of sound analytic methods and tradecraft. To ensure the widest possible distribution of the evaluations, the Analytic Review Unit shall, when appropriate, produce evaluations at multiple classification levels.

(6) Upon completion of the evaluations under paragraph (4), the Ombudsman may make recommendations to the National Intelligence Director, and to the heads of the elements of the intelligence community, for such personnel actions as the Ombudsman considers appropriate in light of the evaluations, including awards, commendations, reprimands, additional training, or disciplinary action.

On page 80, line 6, strike ''INFORMATION.—'' and insert ''INFORMATION AND PERSONNEL.—(1)''.

On page 80, line 8, insert '', the Analytic Review Unit, and other staff of the Office of the Ombudsman of the National Intelligence Authority'' after ''Authority''.

On page 80 line 10, insert ''operational and'' before ''field reports''.

On page 80, between lines 13 and 14, insert the following:

(2) The Ombudsman, the Analytic Review Unit, and other staff of the Office shall have access to any employee, or any employee of a contractor, of the intelligence community whose testimony is needed for the performance of the duties of the Ombudsman.

SA 3749. Mr. ROBERTS 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 51, strike lines 19 through 24 and insert the following:

(c) SCOPE OF POSITION.—(1) The General Counsel of the National Intelligence Authority is the chief legal officer of the National Intelligence Authority and the National Intelligence Program and for the relationships between any element of the intelligence community within the National Intelligence Program and any other element of the intelligence community.

(2) The General Counsel shall, in coordination with the Attorney General, serve as the chief legal authority of the executive branch on the effect on intelligence and intelligence-related activities of the United States Government of the Constitution, laws, regulations, Executive orders and implementing guidelines of the United States and of any other law, regulation, guidance, policy, treaty, or international agreement.

(d) DUTIES AND RESPONSIBILITIES.—The General Counsel of the National Intelligence Authority shall—

(1) assist the National Intelligence Director in carrying out the responsibilities of the Director to ensure that—

(A) the intelligence community is operating as authorized by the Constitution and all laws, regulations, Executive orders, and implementing guidelines of the United States;

(B) the intelligence community is operating in compliance with any directives, policies, standards, and guidelines issued by the Director; and

(C) the intelligence community has all authorities necessary to provide timely and relevant intelligence information to the President, other policymakers, and military commanders;

(2) coordinate the legal programs of the elements of the intelligence community within the National Intelligence Program;

(3) coordinate with the Department of Justice to ensure that the activities of the intelligence community are consistent with the obligations of the Constitution and all laws, regulations, Executive orders, and implementing guidelines of the United States;

(4) in consultation with the Department of Justice, interpret, and resolve all conflicts in the interpretation or application of, the Constitution and all laws, regulations, Executive orders, and implementing guidelines of the United States to the intelligence and intelligence-related activities of the United States Government;

(5) recommend to the Director directives, policies, standards, and guidelines relating to the activities of the intelligence community;

(6) review, on an annual basis, in coordination with the heads of the elements of the intelligence community, the legal programs of each element of the intelligence community to determine if charges or modifications to authorities under such programs are required;

(7) provide legal guidance, which shall be dispositive within the executive branch, to the Department of State, the Department of Justice, and other departments, agencies, and elements of the United States Government on the effect of the implementation

and interpretation of treaties and other international agreements on the intelligence and intelligence-related activities of the United States Government; and

(8) perform such other duties as the Director may specify.

On page 53, line 8, insert ''in consultation with the General Counsel of the National Intelligence Authority,''.

SA 3750. Mr. ROBERTS 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 87, line 16, strike ''and'' at the end.

On page 87 between lines 16 and 17, insert the following:

(D) ensure that intelligence (including unevaluated intelligence) concerning suspected terrorists, their organizations, and their capabilities, plans, and intentions, the source of such intelligence, and the method used to collect such intelligence is disseminated in a timely and efficient manner that promotes comprehensive all-source analysis with the Directorate and by appropriately cleared officers and employees of the United States Government, notwithstanding the element of the intelligence community that collected such intelligence or the location of such collection;

(E) conduct, or direct through the National Intelligence Director 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;

(F) 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;

(G) ensure the dissemination of Directorate intelligence products to the President, to Congress, to the heads of other departments and agencies of the executive branch, to the Chairman of the Joint Chiefs of Staff and senior military commanders, and to such other persons or entities as the President shall direct; and

On page 87, line 17, strike ''(D)'' and insert ''(H)''.

On page 96, line 16, strike ''foreign''.

SA 3751. Mr. ROBERTS 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 200, strike lines 5 through 11 and insert the following:

SEC. 307. CONFORMING AMENDMENTS ON RESPONSIBILITIES OF SECRETARY OF DEFENSE PERTAINING TO NATIONAL INTELLIGENCE PROGRAM.

Section 105(a) of the National Security Act of 1947 (50 U.S.C. 403–5(a)) is amended—

(1) in paragraph (1), by striking ''ensure'' and inserting ''assist the Director in ensuring''; and

(2) in paragraph (2), by striking ''appropriate''.

SA 3752. Mr. ROBERTS 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 32, between lines 15 and 16, insert the following:

(k) HUMAN INTELLIGENCE OVERSIGHT AND COORDINATION.—The National Intelligence Director shall—

(1) ensure the efficient and effective collection of national intelligence through human sources;

(2) provide overall direction for and coordinate the collection of national intelligence through human sources by elements of the intelligence community authorized to undertake such collection; and

(3) coordinate with other departments, agencies, and elements of the United States Government which are authorized to undertake such collection and ensure that the most effective use is made of the resources of such departments, agencies, and elements with respect to such collection, and resolve operational conflicts regarding such collection.

On page 32, line 20, strike ''(k)'' and insert ''(l)''.

On page 179, strike line 21 and all that follows through page 180, line 6.

SA 3753. Mr. ROBERTS 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 32, beginning on line 8, strike ''oversee and direct'' and all that follows through line 10 and insert ''direct and coordinate''.

On page 181, strike lines 1 through 10.

SA 3754. Mr. ROBERTS 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 20, between lines 3 and 4, insert the following:

(d) RESPONSIBILITY FOR PERFORMANCE OF SPECIFIC FUNCTIONS.—In carrying out responsibilities under this section, the National Intelligence Director shall ensure—

(1) through the National Security Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the conduct of signals intelligence activities and shall ensure that the product is disseminated in a timely manner to authorized recipients;

(2) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), effective management of human intelligence activities (other than activities of the defense attaches, which shall remain under the direction of the Secretary of Defense) and other national intelligence collection activities performed by the Defense Intelligence Agency;

(3) through the National Geospatial-Intelligence Agency (except as otherwise directed by the President or the National Security Council), with appropriate representation from the intelligence community, the continued operation of an effective unified organization—

(A) for carrying out tasking of imagery collection;

(B) for the coordination of imagery processing and exploitation activities;

(C) for ensuring the dissemination of imagery in a timely manner to authorized recipients; and

(D) notwithstanding any other provision of law and consistent with the policies, procedures, standards, and other directives of the National Intelligence Director and the Chief Information Officer of the National Intelligence Authority, for—

(i) prescribing technical architecture and standards related to imagery intelligence and geospatial information and ensuring compliance with such architecture and standards; and

(ii) developing and fielding systems of common concern related to imagery intelligence and geospatial information; and

(4) through the National Reconnaissance Office (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the research, development, acquisition, and operation of overhead reconnaissance systems necessary to satisfy the requirements of all elements of the intelligence community.

(e) NATIONAL INTELLIGENCE COLLECTION.—The National Intelligence Director shall—

(1) ensure the efficient and effective collection of national intelligence using technical means, human sources, and other lawful techniques;

(2) provide overall direction for and coordinate the collection of national intelligence through human sources by elements of the intelligence community authorized to undertake such collection; and

(3) coordinate with other departments, agencies, and elements of the United States Government which are authorized to undertake such collection and ensure that the most effective use is made of the resources of such departments, agencies, and elements with respect to such collection, and resolve operational conflicts regarding such collection.

On page 20, line 4, strike ''(d)'' and insert ''(f)''.

On page 32, beginning on line 8, strike ''oversee and direct'' and all that follows through line 10 and insert ''direct and coordinate''.

On page 179, strike lines 1 through 4 and insert the following:

''(b) SUPERVISION.—(1) The Director of the Central Intelligence Agency shall be under the direction, supervision, and control of the National Intelligence Director.

''(2) The Director of the Central Intelligence Agency shall report directly to the National Intelligence Director regarding the activities of the Central Intelligence Agency.

On page 179, line 20, add ''and'' at the end.

On page 179, strike line 21 and all that follows through page 180, line 6.

On page 180, line 7, strike ''(4)'' and insert ''(3)''.

On page 181, strike lines 1 through 10.

On page 200, strike lines 5 through 11 and insert the following:

SEC. 307. CONFORMING AMENDMENTS ON RESPONSIBILITIES OF SECRETARY OF DEFENSE PERTAINING TO NATIONAL INTELLIGENCE PROGRAM.

Section 105 of the National Security Act of 1947 (50 U.S.C. 403–5) is amended—

(1) in subsection (a)(1), by striking ''ensure'' and inserting ''assist the Director in ensuring''; and

(2) in subsection (b)—

(A) by striking paragraphs (1), (2), and (3);

(B) by redesignating paragraphs (4), (5), and (6) as paragraphs (1), (2), and (3) respectively;

(C) in paragraph (1), as so redesignated, by striking ''or the National Security Council)'' and inserting '', the National Security Council, or the National Intelligence Director (when exercising the responsibilities and authorities provided under this Act, the National Intelligence Reform Act of 2004, or any other provision of law))''; and

(D) in paragraph (2), as so redesignated, by striking ''Department of Defense human intelligence activities, including''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. COLEMAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on September 28, 2004, at 10 a.m., to conduct a hearing on ''policies to enforce the bank secrecy act and prevent money laundering in money services businesses and the gaming industry.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. COLEMAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on September 28, 2004, at 9:30 a.m. on Media Ownership.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. COLEMAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 28, 2004, at 2:30 p.m. to hold a hearing on Combating Corruption in the Multilateral Development Banks (III).

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

SPECIAL COMMITTEE ON AGING

Mr. COLEMAN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Tuesday, September 28, 2004, from 10 a.m.–12 p.m. in Dirksen 628 for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. COLEMAN. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space be authorized to meet on September 28, 2004, at 2:30 p.m. on Effectiveness of Media Ratings Systems.

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

FEED AMERICA THURSDAY

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 440, which was submitted earlier today by Senator HATCH.

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

The legislative clerk read as follows:

A resolution (S. Res. 440) designating Thursday, November 18, 2004, as Feed America Thursday.

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

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

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

The resolution (S. Res. 440) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 440

Whereas Thanksgiving Day celebrates the spirit of selfless giving and an appreciation for family and friends;

Whereas the spirit of Thanksgiving Day is a virtue upon which our Nation was founded;

Whereas 33,000,000 Americans, including 13,000,000 children, continue to live in households that do not have an adequate supply of food;

Whereas almost 3,000,000 of those children experience hunger; and

Whereas selfless sacrifice breeds a genuine spirit of Thanksgiving, both affirming and restoring fundamental principles in our society: Now, therefore, be it

Resolved, That the Senate—

(1) designates Thursday, November 18, 2004, as ''Feed America Thursday''; and

(2) requests that the President issue a proclamation calling upon the people of the United States to sacrifice 2 meals on Thursday, November 18, 2004, and to donate the money that they would have spent on food to a religious or charitable organization of their choice for the purpose of feeding the hungry.

CONTRIBUTIONS OF WISCONSIN NATIVE AMERICANS TO OPENING OF NATIONAL MUSEUM OF AMERICAN INDIANS

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 439 submitted earlier today by Senators FEINGOLD and KOHL.

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

The legislative clerk read as follows:

A resolution (S. Res. 439) recognizing the contributions of Wisconsin Native Americans to the opening of the National Museum of the American Indian.

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

Mr. FRIST. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, without intervening action or debate, and that any statements relating thereto be printed in the RECORD.

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

The resolution (S. Res. 439) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 439

Whereas the National Museum of the American Indian Act (20 U.S.C. 80q et seq.) established within the Smithsonian Institution the National Museum of the American Indian and authorized the construction of a facility to house the National Museum of the American Indian on the National Mall in the District of Columbia;

Whereas the National Museum of the American Indian officially opened on September 21, 2004;

Whereas the National Museum of the American Indian will be the only national museum devoted exclusively to the history and art of cultures indigenous to the Americas, and will give all Americans the opportunity to learn about the cultural legacy, historic grandeur, and contemporary culture of Native Americans, including the tribes that presently and historically occupy the State of Wisconsin;

Whereas the land that comprises the State of Wisconsin has been home to numerous Native American tribes for many years, including 11 federally recognized tribal governments: the Bad River Band of Lake Superior Chippewa Indians, the Forest County Potawatomi Indian Community, the Ho-Chunk Nation of Wisconsin, the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, the Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin, the Menominee Indian Tribe of Wisconsin, the Oneida Tribe of Indians of Wisconsin, the Red Cliff Band of Lake Superior Chippewa Indians, the Sokaogon Chippewa (Mole Lake) Community of Wisconsin, the St. Croix Chippewa Indians of Wisconsin, and the Stockbridge Munsee Community of Wisconsin; and

Whereas members of Native American tribes have greatly contributed to the unique culture and identity of Wisconsin by lending words from their languages to the names of many places in the State and by sharing their customs and beliefs with others who chose to make Wisconsin their home: Now, therefore, be it

Resolved, That the Senate—

(1) celebrates the official opening of the National Museum of the American Indian;

(2) recognizes the native people of Wisconsin, and of the entire United States, and their past, present, and future contributions to America's culture, history, and tradition; and

(3) requests that the Senate send an enrolled copy of this resolution to the chairpersons of Wisconsin's federally recognized tribes.

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 438 submitted earlier today by Senators BIDEN, HATCH, KOHL, and others.

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

The legislative clerk read as follows:

A resolution (S. Res. 438) supporting the goals and ideals of National Domestic Violence Awareness Month and expressing the sense of the Senate that Congress should raise awareness of domestic violence in the

United States and its devastating effects on families.

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

Mr. FRIST. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, without intervening action or debate, and that any statements relating thereto be printed in the RECORD.

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

The resolution (S. Res. 438) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 438

Whereas 2004 marks the tenth anniversary of the enactment of the Violence Against Women Act of 1994 (Public Law 103–322, 108 Stat. 1902);

Whereas since the passage of the Violence Against Women Act of 1994, communities have made significant progress in reducing domestic violence such that between 1993 and 2001, the incidents of nonfatal domestic violence fell 49 percent;

Whereas since created by the Violence Against Women Act of 1994, the National Domestic Violence Hotline has answered over 1,000,000 calls;

Whereas States have passed over 660 State laws pertaining to domestic violence, stalking, and sexual assault;

Whereas the Violence Against Women Act of 1994 has helped make strides toward breaking the cycle of violence, but there remains much work to be done;

Whereas domestic violence affects women, men, and children of all racial, social, religious, ethnic, and economic groups in the United States;

Whereas on average, more than 3 women are murdered by their husbands or boyfriends in the United States every day;

Whereas women who have been abused are much more likely to suffer from chronic pain, diabetes, depression, unintended pregnancies, substance abuse, and sexually transmitted infections, including HIV/AIDS;

Whereas only about 10 percent of primary care physicians routinely screen for domestic violence during new patient visits, and 9 percent routinely screen during periodic checkups;

Whereas each year, about 324,000 pregnant women in the United States are battered by the men in their lives, leading to pregnancy complications, including low weight gain, anemia, infections, and first and second trimester bleeding;

Whereas every 2 minutes, someone in the United States is sexually assaulted;

Whereas almost 25 percent of women surveyed had been raped or physically assaulted by a spouse or boyfriend at some point in their lives;

Whereas in 2002 alone, 250,000 women and girls older than the age of 12 were raped or sexually assaulted;

Whereas 1 out of every 12 women has been stalked in her lifetime;

Whereas some cultural norms, economics, language barriers, and limited access to legal services and information may make some immigrant women particularly vulnerable to abuse;

Whereas 1 in 5 adolescent girls in the United States becomes a victim of physical or sexual abuse, or both, in a dating relationship;

Whereas 40 percent of girls ages 14 to 17 report knowing someone their age who has been hit or beaten by a boyfriend;

Whereas annually, approximately 8,800,000 children in the United States witness domestic violence;

Whereas witnessing violence is a risk factor for having long-term physical and mental health problems (including substance abuse), being a victim of abuse, and becoming a perpetrator of abuse;

Whereas a boy who witnesses his father's domestic violence is 10 times more likely to engage in domestic violence than a boy from a nonviolent home;

Whereas the cost of domestic violence, including rape, physical assault, and stalking, exceeds $5,800,000,000 each year, of which $4,100,000,000 is spent on direct medical and mental health care services;

Whereas 44 percent of the Nation's mayors identified domestic violence as a primary cause of homelessness;

Whereas 25 to 50 percent of abused women reported they lost a job due, in part, to domestic violence;

Whereas there is a need to increase the public awareness about, and understanding of, domestic violence and the needs of battered women and their children;

Whereas the month of October 2004 has been recognized as National Domestic Violence Awareness Month, a month for activities furthering awareness of domestic violence; and

Whereas the dedication and successes of those working tirelessly to end domestic violence and the strength of the survivors of domestic violence should be recognized: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of National Domestic Violence Awareness Month; and

(2) expresses the sense of the Senate that Congress should continue to raise awareness of domestic violence in the United States and its devastating impact on families.

ENCOURAGING THE INTERNATIONAL OLYMPIC COMMITTEE TO SELECT NEW YORK CITY AS THE SITE OF THE 2012 OLYMPIC GAMES

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 475, at the desk, and just received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

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

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

Mr. FRIST. I ask unanimous consent the concurrent resolution and preamble be agreed to en bloc, any statements be printed in the RECORD, without any intervening action or debate.

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

The concurrent resolution (H. Con. Res. 475) was agreed to.

The preamble was agreed to.

COASTAL BARRIER RESOURCES

Mr. FRIST. Mr. President, I ask unanimous consent the Chair now lay before the Senate the House message to accompany S. 1663.

The PRESIDING OFFICER laid before the Senate the following message:

S. 1663

Resolved, That the bill from the Senate (S. 1663) entitled ''An Act to replace certain Coastal Barrier Resources System maps'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. REPLACEMENT OF CERTAIN COASTAL BARRIER RESOURCES SYSTEM MAPS.

(a) IN GENERAL.—The 2 maps subtitled ''NC–07P'', relating to the Coastal Barrier Resources System unit designated as Coastal Barrier Resources System Cape Fear Unit NC–07P, that are included in the set of maps entitled ''Coastal Barrier Resources System'' and referred to in section 4(a) of the Coastal Barrier Resources Act (16 U.S.C. 3503(a)), are hereby replaced by 2 other maps relating to those units entitled ''Coastal Barrier Resources System Cape Fear Unit, NC–07P'' and dated May 5, 2004.

(b) AVAILABILITY.—The Secretary of the Interior shall keep the maps referred to in subsection (a) on file and available for inspection in accordance with the provisions of section 4(b) of the Coastal Barrier Resources Act (16 U.S.C. 3503(b)).

Mr. FRIST. I ask unanimous consent that the Senate concur in the House amendment, 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.

REAUTHORIZATION OF THE TROPICAL FOREST CONSERVATION ACT OF 1998

Mr. FRIST. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of H.R. 4654 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. 4654) to authorize the Tropical Forest Conservation Act of 1998 through fiscal year 2007, and for other purposes.

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

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read the 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. 4654) was read the third time and passed.

MEASURES READ THE FIRST TIME—S. 2852, H.R. 1084, AND H.R. 1787

Mr. FRIST. Mr. President, I understand there are three bills at the desk, and I ask for their first reading en bloc.

The PRESIDING OFFICER. The clerk will report the bills by title en bloc.

The legislative clerk read as follows:

A bill (S. 2852) to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes.

A bill (H.R. 1084) to provide liability protection to nonprofit volunteer pilot organizations flying for public benefit and to the pilots and staff of such organizations.

A bill (H.R. 1787) to remove civil liability barriers that discourage the donation of fire equipment to volunteer fire companies.

Mr. FRIST. Mr. President, I now ask for their second reading, and in order to place the bills on the calendar under provisions of rule XIV, I object to my own request en bloc.

The PRESIDING OFFICER. Objection is heard. The bills will receive their second reading on the next legislative day.

SUPREME COURT AUTHORIZATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 707, S. 2742.

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

The legislative clerk read as follows:

A bill (S. 2742) to extend certain authority of the Supreme Court Police, modify the venue of prosecutions relating to the Supreme Court building and grounds, and authorize the acceptance of gifts to the United States Supreme Court, and for other purposes.

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

Mr. LEAHY. Mr. President, I am pleased to be an original cosponsor of S. 2742, which is a short but important piece of legislation that Senator HATCH and I have cosponsored at the request of the Supreme Court. This legislation would renew authority to provide security for the Justices when they leave the Supreme Court. Recent reports of the assault of Justice Souter when he was outside of the Supreme Court highlight the importance of security for Justices. If no congressional action is taken, the authority of Supreme Court police to protect Justices off court grounds will expire at the end of this year.

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

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

Mr. FRIST. Mr. President, I ask unanimous consent that the Hatch amendment at the desk be agreed to, that the bill, as amended, be read the 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 amendment (No. 3729) was agreed to, as follows:

(Purpose: To provide for authority to accept gifts pertaining to the history of the Supreme Court, and for other purposes)

On page 2, lines 22 and 23, strike ''for the purpose of aiding or facilitating the work of the United States Supreme Court,'' and insert ''pertaining to the history of the United States Supreme Court or its justices,''.

The bill (S. 2742), as amended, was read the third time and passed, as follows:

S. 2742

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

SECTION 1. EXTENSION OF AUTHORITY FOR THE UNITED STATES SUPREME COURT POLICE TO PROTECT COURT OFFICIALS OFF THE SUPREME COURT GROUNDS.

Section 6121(b)(2) of title 40, United States Code, is amended by striking ''2004'' and inserting ''2008''.

SEC. 2. VENUE FOR PROSECUTIONS RELATING TO THE UNITED STATES SUPREME COURT BUILDING AND GROUNDS.

Section 6137 of title 40, United States Code, is amended by striking subsection (b) and inserting the following:

''(b) VENUE AND PROCEDURE.—Prosecution for a violation described in subsection (a) shall be in the United States District Court for the District of Columbia or in the Superior Court of the District of Columbia, on information by the United States Attorney or an Assistant United States Attorney.''.

SEC. 3. GIFTS TO THE UNITED STATES SUPREME COURT.

The Chief Justice or his designee is authorized to accept, hold, administer, and utilize gifts and bequests of personal property pertaining to the history of the United States Supreme Court or its justices, but gifts or bequests of money shall be covered into the Treasury.

MEASURE REFERRED—H.R. 3428

Mr. FRIST. I ask unanimous consent that H.R. 3428, a bill to designate a portion of the U.S. courthouse located at 2100 Jamieson Avenue in Alexandria, VA, as the ''Justin W. Williams United States Attorney's Building'' which is on the calendar, be referred to the committee on Environment and Public Works.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's calendar: No. 690 and all nominations on the Secretary's desk with NOAA and the Public Health Service.

I further ask unanimous consent that the nominations be confirmed en bloc, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

NOMINATIONS PLACED ON THE SECRETARY'S DESK

DEPARTMENT OF DEFENSE

Dionel M. Aviles, of Maryland, to be Under Secretary of the Navy.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

PN1977 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION nominations (124) beginning Jonathan W. Bailey, and ending Richard A. Edmundson, which nominations were received by the Senate and appeared in the Congressional Record of September 20, 2004.

PN1978 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION nominations (29) beginning Timothy J. Gallagher, and ending Bernerd R. Archer, which nominations were received by the Senate and appeared in the Congressional Record of September 20, 2004.

PUBLIC HEALTH SERVICE

PN1511 PUBLIC HEALTH SERVICE nominations (224) beginning Terence L. Chorba, and ending Parmjeet S. Saini, which nominations were received by the Senate and appeared in the Congressional Record of April 8, 2004.

PN1632 PUBLIC HEALTH SERVICE nominations (2) beginning Daniel Molina, and ending James D. Warner, which nominations were received by the Senate and appeared in the Congressional Record of May 17, 2004.

PN1633 PUBLIC HEALTH SERVICE nominations (8) beginning Songhai Barclift, and ending Gregory Woitte, which nominations were received by the Senate and appeared in the Congressional Record of May 17, 2004.

PN1634 PUBLIC HEALTH SERVICE nominations (652) beginning Alvin Abrams, and ending Ariel E. Vidales, which nominations were received by the Senate and appeared in the Congressional Record of May 17, 2004.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ORDERS FOR WEDNESDAY, SEPTEMBER 29, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, September 29. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of S. 2845, the intelligence reform bill.

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

PROGRAM

Mr. FRIST. Mr. President, for the information of all Senators, tomorrow the Senate will resume consideration of the intelligence reform bill. We had very good debate on the bill today, disposing of two very important amendments. We also had good debate on the pending Specter intelligence consolidation amendment today as well. We would like to get a reasonable time agreement for that amendment and vote early tomorrow morning. Tomorrow we will lock in an amendment list to this bill. This is the first step in the process for the Senate to show the commitment to finish this bill.

Further, we need to reach an agreement to have amendments filed at the desk so that all Members will be able to see legislative text. We will do this at some point, I am quite sure, late tomorrow afternoon. I have talked about the scheduling changes that confront the Senate this week. In order to complete this important bill, we will need Senators to make themselves available to offer their amendments and to agree to reasonable debate times.

I will continue consulting with the Democratic leader as to the voting schedule for the remainder of the week and next week. It is clear that this cannot be business as usual. It is a very important bill before the Senate. We have a number of issues in terms of appropriations, continuing resolutions, extensions on other bills that have to be dealt with over the coming days. I continue to ask all our Members to be prepared to adapt their schedules for this extraordinary piece of legislation that is in the Senate as well as these other pieces of legislation coming before the Senate.

I had the opportunity over the course of today to talk to the Democratic leadership as well as members of our caucus and other Members of the Senate, and it is clear that we have a lot of work to do in a short period of time. Thus, even though we will do our very best to work around individual Members' schedules, we will have to change the pace of the last several weeks or several months, meaning the potential for voting on Friday, voting for sure on Monday. Suggestions have even come forward that in order to meet all of our objectives on all these bills before our departure on October 8 we should even consider working through this Saturday and Sunday.

I mention all of those, and no decisions have been made except that the fact that so many people are coming forward to say we have a lot to do means we will have to vote through this week every day starting right at 9:30. We will not have morning business tomorrow. We will go straight into the bill and continue through Wednesday, Thursday, Friday and, clearly, have a full working day on Monday as well.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I say through the Chair, Senator DASCHLE has met with Senator FRIST on more than one occasion today. These are extraordinary times. Not only do we have a Presidential election, but these are extraordinary times because of the threat facing our country.

This legislation, the two leaders believe, should be expedited. It deals with that very threat. Everyone should listen very closely to what the majority leader said. That is, we have to take a look at Friday, weekend, Monday. This is for real. We are running out of time. The two leaders agree that we have to work very hard to complete the agenda we have ahead of us, which is a lot in a very short period of time.

Mr. FRIST. Mr. President, in closing, I thank Chairman WARNER for assisting in getting the Under Secretary of the Navy confirmed today—tonight. The Under Secretary reported out on May 12, 2004. I thank our distinguished colleague for working so hard and assisting in getting this accomplished tonight.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:22 p.m., adjourned until Wednesday, September 29, 2004, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 28, 2004:

DEPARTMENT OF DEFENSE

DIONEL M. AVILES, OF MARYLAND, TO BE UNDER SECRETARY OF THE NAVY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NOMINATIONS BEGINNING JONATHAN W. BAILEY AND ENDING RICHARD A. EDMUNDSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 20, 2004.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NOMINATIONS BEGINNING TIMOTHY J. GALLAGHER AND ENDING BERNERD R. ARCHER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 20, 2004.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING TERENCE L. CHORBA AND ENDING PARMJEET S. SAINI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 8, 2004.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING DANIEL MOLINA AND ENDING JAMES D. WARNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 17, 2004.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING SONGHAI BARCLIFT AND ENDING GREGORY WOITTE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 17, 2004.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING ALVIN ABRAMS AND ENDING ARIEL E. VIDALES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 17, 2004.