

that the Federal Government truly live up to the resource conservation goals first established by Congress in 1976 within the Resource Conservation and Recovery Act and become a true role model in our nation's conservation efforts.

ADDITIONAL COSPONSORS

S. 876

At the request of Mr. DORGAN, his name was added as a cosponsor of S. 876, a bill to amend the Communications Act of 1934 of require that the broadcast of violent video programming be limited to hours when children are not reasonably likely to comprise a substantial portion of the audience.

S. 3254

At the request of Mr. KENNEDY, the names of the Senator from Rhode Island (Mr. L. CHAFEE), the Senator from Vermont (Mr. LEAHY), the Senator from Iowa (Mr. HARKIN), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Rhode Island (Mr. REED), and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 3254, a bill to provide assistance to East Timor to facilitate the transition of East Timor to an independent nation, and for other purposes.

S. 3259

At the request of Mr. MOYNIHAN, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 3259, a bill to amend the Internal Revenue Code of 1986 to provide a rehabilitation credit for certain expenditures to rehabilitate historic performing arts facilities.

S. J. RES. 56

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. J. Res. 56, a joint resolution proposing an amendment to the Constitution of the United States to abolish the electoral college and to provide for the direct popular election of the President and Vice President of the United States.

SENATE RESOLUTION 384—
RELATIVE TO RULE XXXIII

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 384

Resolved, That, notwithstanding the provisions of Rule XXXIII, the Senate authorize the videotaping of the address by the Senator from West Virginia (Mr. Byrd) to the incoming Senators scheduled to be given in the Senate Chamber in December 2000.

AMENDMENTS SUBMITTED

COUNTERTERRORISM ACT OF 2000

KYL (AND OTHERS) AMENDMENT
NO. 4358

Mr. KYL (for himself and Mrs. FEINSTEIN) proposed an amendment to the bill (S. 3205) to enhance the capability of the United States to deter, prevent, thwart, and respond to international acts of terrorism against United States nationals and interests; as follows:

In section 2(a), strike paragraph (3) and insert the following:

(3) Seventeen United States sailors were killed in the attack, and thirty-nine were injured.

In section 2(b)(1), strike "take immediate actions" and insert "continue to take strong and effective actions".

In section 3, strike paragraph (8) and redesignate paragraphs (9), (10), (11), (12), and (13) as paragraphs (8), (9), (10), (11) and (12), respectively.

In section 3(10), as so redesignated, strike "There are 28 organizations" and all that follows through the end and insert the following: "There are currently 29 FTOs. The National Commission on Terrorism recommended that the Secretary of State ensure that the list of FTO designations is credible and updated regularly."

In section 3(12), as so redesignated, strike "Such controls were designed to prevent accidents, not theft."

In section 7(c)(1), strike subparagraphs (A) and (B) and insert the following:

(A) The Committees on Appropriations, Armed Services, and the Judiciary and the Select Committee on Intelligence of the Senate.

(B) The Committees on Appropriations, Armed Services, International Relations, and the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives.

In section 9(a), strike "the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives" and insert "the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives".

In section 10(a), strike "Congress" and insert "the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives".

In section 12(a)(2)(A), insert after "the Secretary of Defense," the following: "the Secretary of Health and Human Services."

In 12(a), add after paragraph (3) the following:

(4) The Attorney General shall consult with the Secretary of Health and Human Services in preparing any recommendations under paragraph (2)(B), and shall include in the report under paragraph (1) a detailed description of the methodology and criteria used to define and determine the types and classes of pathogens covered by such recommendations.

In section 12(b), add at the end the following: "The report shall include a detailed description of the methodology and criteria used to define and determine the types and classes of pathogens covered by the report."

COUNTERTERRORISM ACT OF 2000

Mr. WARNER. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 3205 and, further, the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 3205) to enhance the capability of the United States to deter, prevent, thwart, and respond to international acts of terrorism against United States nationals and interests.

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

AMENDMENT NO. 4358

Mr. WARNER. Senators KYL and FEINSTEIN have an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. KYL, for himself and Mrs. FEINSTEIN, proposes an amendment numbered 4358.

The amendment is as follows:

In section 2(a), strike paragraph (3) and insert the following:

(3) Seventeen United States sailors were killed in the attack, and thirty-nine were injured.

In section 2(b)(1), strike "take immediate actions" and insert "continue to take strong and effective actions".

In section 3, strike paragraph (8) and redesignate paragraphs (9), (10), (11), (12), and (13) as paragraphs (8), (9), (10), (11) and (12), respectively.

In section 3(10), as so redesignated, strike "There are 28 organizations" and all that follows through the end and insert the following: "There are currently 29 FTOs. The National Commission on Terrorism recommended that the Secretary of State ensure that the list of FTO designations is credible and updated regularly."

In section 3(12), as so redesignated, strike "Such controls were designed to prevent accidents, not theft."

In section 7(c)(1), strike subparagraphs (A) and (B) and insert the following:

(A) The Committees on Appropriations, Armed Services, and the Judiciary and the Select Committee on Intelligence of the Senate.

(B) The Committees on Appropriations, Armed Services, International Relations, and the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives.

In section 9(a), strike "the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives" and insert "the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives".

In section 10(a), strike "Congress" and insert "the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives".

In section 12(a)(2)(A), insert after "the Secretary of Defense," the following: "the Secretary of Health and Human Services."

In 12(a), add after paragraph (3) the following:

(4) The Attorney General shall consult with the Secretary of Health and Human Services in preparing any recommendations under paragraph (2)(B), and shall include in the report under paragraph (1) a detailed description of the methodology and criteria used to define and determine the types and classes of pathogens covered by such recommendations.

In section 12(b), add at the end the following: "The report shall include a detailed description of the methodology and criteria used to define and determine the types and classes of pathogens covered by the report."

Mr. LEAHY. Mr. President, Senators KYL and FEINSTEIN introduced S. 3205, the Counterterrorism Act of 2000, on October 12, 2000. They base their bill on recommendations made in a report called "Countering the Changing Threat of International Terrorism," issued on June 5, 2000 by the National Commission on Terrorism chaired by former Ambassador L. Paul Bremer III and Maurice Sonnenberg. The sponsors seek to have the Senate consider and pass the bill unanimously without hearings on its legislative language, without Committee consideration, without Senate debate and without amendment. In my efforts to be supportive of them I have shared with them concerns I have had about earlier versions of this legislation. In light of the improvements and corrections that the sponsors have now made, I am pleased to remove my objection to passage of the bill. I commend the sponsors for heeding constructive comments to improve the bill.

At the outset, I note that I have worked to help Senator KYL clear a number of matters of importance to him in this Congress. Most recently, the Senate passed on November 19, 1999, S. 692, the Internet Gambling Prohibition Act, and on September 28, 2000, repassed S. 704, the Federal Prisoner Health Care Copayment Act. Moreover, in the past few months, we have worked together to confirm three more judges for Arizona.

In past Congresses, I have also worked closely with Senator KYL. For example, in the 104th Congress, Senators KYL, GRASSLEY and I worked together to enact the National Information Infrastructure Protection Act. This law increased protection under federal criminal law for both government and private computers, and addressed the emerging problem of computer-age blackmail in which a criminal threatens to harm or shut down a computer system unless certain extortion demands are met.

The NII Protection Act that I worked on with Senator KYL was intended to help law enforcement better address the problem of computer crime, in which cyber attacks are an important component. The Bremer-Sonnenberg Commission noted that, "[r]easonable experts have published sobering scenarios about the potential impact of a

successful cyber attack on the United States. Already, hackers and criminals have exploited some of our vulnerabilities." In short, the Commission found that, "cyber security is a matter of grave importance."

As technology advances, the Congress must remain vigilant to ensure that our laws remain up to date and our local, State and federal law enforcement resources are up to the job posed by new technological challenges. That is why I have continued to work over this Congress with the Chairman of the Judiciary Committee and Senator SCHUMER on S. 2448, which the Senate Judiciary Committee unanimously reported favorably on October 5th for consideration by the Senate as the Internet Security Act amendment on another bill. This legislation would make changes to the federal Computer Fraud and Abuse statute and provide significant new resources to federal law enforcement for forensic computer crime work.

I have also been pleased to work with Senator DEWINE on S. 1314, the Computer Crime Enforcement Act, to help provide the necessary funding for training and equipment for state and local law enforcement to deal with computer crimes. The Senate Judiciary Committee unanimously reported this bill favorably to the Senate on September 21, 2000. Although he is not a cosponsor of these bills, I appreciate Senator KYL's support for both S. 2448 and S. 1314 as those bills moved through Committee. These complementary pieces of legislation reflect twin-track progress against computer crime: More tools at the federal level and more resources for local computer crime enforcement.

In addition, the Senate Judiciary Committee has considered and reported unanimously on May 18, 2000, S. 2089, the Counterintelligence Reform Act, which I was pleased to cosponsor with Senators SPECTER, TORRICELLI, and others. Senator KYL did not cosponsor this bill.

The Counterintelligence Reform Act is intended to improve the coordination within and among federal agencies investigating and prosecuting espionage cases and other cases affecting national security. Specifically, this legislation amends the Foreign Intelligence Surveillance Act to state explicitly that past activities of a target may be considered in determining whether there is probable cause to believe that the target of electronic surveillance is an "agent of a foreign power." This particular provision appears to address a criticism subsequently raised in the Bremer-Sonnenberg Commission report that the Office of Intelligence Policy and Review, which is the Justice Department unit responsible for preparing and presenting FISA applications to the FISA court, "does not generally

consider the past activities of the surveillance target relevant in determining whether the FISA probable cause test is met."

The Bremer-Sonnenberg Commission report recommended that "the Attorney General should substantially expand" OIPR in order "[t]o ensure timely review of the Foreign Intelligence Surveillance Act applications." I concur with this recommendation. In fact, even before the Commission report was released and during Judiciary Committee consideration of S. 2089, I offered an amendment to S. 2089, which was approved by the Judiciary Committee, that would authorize an increase in the budget for OIPR from its current funding level of \$4,084,000 to \$7,000,000 for FY 2001, with increases up to \$8,000,000 over the following two years, for expanded personnel and technology resources. The Select Committee on Intelligence also approved this budget increase for OIPR upon consideration of S. 2089, which subsequently was passed by the Congress as part of the Intelligence Authorization Act, S. 2507.

Recently, the Congress passed as part of the conference report on the Trafficking Victims Protection Act, H.R. 3244, the Justice for Victims of Terrorism Act with an amendment that Senator FEINSTEIN and I authored dealing with support for victims of international terrorism. Senator KYL did not cosponsor this amendment. This amendment is intended to enable the Office for Victims of Crime to provide more immediate and effective assistance to Americans who are victims of terrorism abroad—Americans like those killed or injured in the embassy bombings in Kenya and Tanzania, and in the Pan Am 103 bombing over Lockerbie, Scotland. These victims deserve help, and the Leahy-Feinstein amendment will permit the Office for Victims of Crime to serve these victims better by expanding the types of assistance for which the VOCA emergency reserve fund may be used, and the range of organizations to which assistance may be provided. The amendment allows OVC greater flexibility in using existing reserve funds to assist victims of terrorism abroad, including the victims of the Lockerbie and embassy bombings.

This provision will also authorize OVC to raise the cap on the VOCA emergency reserve fund from \$50 million to \$100 million, so that the fund is large enough to cover the extraordinary costs that would be incurred if a terrorist act caused massive casualties, and to replenish the reserve fund with unobligated funds from its other grant programs.

At the same time, the provision will simplify the presently-authorized system of using VOCA funds to provide victim compensation to American victims of terrorism abroad, by permitting OVC to establish and operate an

international crime victim compensation program. This program will, in addition, cover foreign nationals who are employees of any American government institution targeted for terrorist attack. The source of funding is the VOCA emergency reserve fund, which we authorized in an amendment I offered to the 1996 Antiterrorism and Effective Death Penalty Act.

The Leahy-Feinstein provision also clarifies that deposits into the Crime Victims Fund remain available for intended uses under VOCA when not expended immediately.

As is apparent from the work we have done both in this Congress and in prior Congresses, we all share the interest and concern of the sponsors of S. 3205 in protecting our national security from the threat and risks posed by terrorists determined to harm this country and its citizens and helping victims of terrorist acts. Yet, I have been concerned that earlier versions of this bill posed serious constitutional problems and risks to important civil liberties we hold dear. Unlike the secret holds that often stop good bills from passing often for no good reason, I have had no secret holds on S. 3205 or earlier versions of this legislation. On the contrary, when asked, I have made no secret about the concerns I had with this legislation.

An earlier version of this legislation, which Senator KYL tried to move as part of the Intelligence Authorization bill, S. 2507, prompted a firestorm of controversy from civil liberties and human rights organizations, as well as the Department of Justice. For example, the Department of Justice opposed the amendment on myriad grounds, including that (1) the provision amending the wiretap statute to permit law enforcement officers to share foreign intelligence or counterintelligence information obtained under a title III wiretap with the intelligence community "could have significant implications for prosecutions and the discovery process in litigation"; (2) the provision giving the FBI sixty days to report on the feasibility of establishing a dissemination center within the FBI on international terrorism raised sufficiently significant issues that "do not avail themselves of resolution in this very short time frame"; (3) the provision requiring the creation of a task force to disrupt the fundraising activities of international terrorist organizations would impose a "rigid, statutory mandate" that "would interfere with the need for flexibility in tailoring enforcement strategies and mechanisms to fit the enforcement needs of the particular moment"; and (4) the provision requiring the Attorney General to make legislative language recommendations on matters relating to biological pathogens were "invalid under the Recommendations Clause" and "interferes with the President's ef-

forts to formulate and present his own recommendations and proposals and to control the policy agenda of his Administration."

Similarly, the Center for Democracy and Technology, the Center for National Security Studies and the American Civil Liberties Union, described in detail their concerns that "provisions in the Act pose grave threats to constitutional rights."

I shared many of the concerns of those organizations and the Justice Department, and note that the version of S. 3205 that we consider today addresses those concerns with substantial revisions to the original legislation. For example, no longer does the bill require a change in the wiretap statute allowing the permissive disclosure of information obtained in a title III wiretap to the intelligence agencies. No longer does the bill direct the Central Intelligence Agency to make legislative recommendations to enhance the recruitment of terrorist informants, without any countervailing considerations. Instead, the bill now requests a more balanced picture of the policy considerations that prompted the 1995 guidelines on the use of terrorists as informants and the limitations that may be necessary to assure that the United States does not encourage human rights abuse abroad.

After the bill was introduced, I first advised the sponsors of the bill and then the Senate about the remaining areas of concern that should be fixed in the bill before Senate passage.

In this regard, I note that Senator KYL suggested to the Senate on October 25th that if the Justice Department was satisfied with his legislation, I or my staff had earlier indicated that I would be satisfied. I respect the expertise of the Department of Justice and the many fine lawyers and public servants who work there and, where appropriate, seek out their views, as do many Members. That does not mean that I always share the views of the Department of Justice or follow the Department's preferred course and recommendations without exercising my own independent judgment. I would never represent that if the Justice Department were satisfied with his bill, I would automatically defer to their view. Furthermore, my staff has advised me that no such representation was ever made.

I am pleased that the further corrections to and refinements of this bill have now been made and that the version of the bill that the Senate is now being asked to consider and pass has been improved. First, the bill now contains the correct numbers of sailors killed and injured in the sense of the Congress concerning the tragic bombing attack on the U.S.S. *Cole*. I believe that each of the 17 sailors killed and 39 sailors injured deserve recognition and that the full scope of the attack should

be properly reflected in this Senate bill. I commend the sponsors of the bill for correcting this part of the bill.

Second, the sense of the Congress originally urged the United States Government to "take immediate actions to investigate rapidly the unprovoked attack on the" U.S.S. *Cole*, without acknowledging the fact that such immediate action has been taken. In fact, the Navy began immediate investigative steps shortly after the attack occurred, and the FBI established a presence on the ground and began investigating within 24 hours. The Director himself went to Yemen to guide this investigation. That investigation is active and ongoing, and no Senate bill should reflect differently, as this one originally did. The corrected bill now urges the government "to continue to take strong and effective actions" to investigate this attack. I commend the Administration for the swift and immediate actions it has taken to investigate this attack and the strong statements made by the President making clear that no stone will be left unturned to find the criminals who planned this bloody attack.

Third, the "Findings" section of this bill contained several factual errors or inaccuracies that are now corrected. For example, the original bill stated that there are "38 organizations" designated as Foreign Terrorist Organizations (FTOs) when there are currently 29, which has been corrected. The original bill stated that "current practice is to update the list of FTOs every two years" when in fact the statute requires redesignation of FTOs every two years. This statement has been corrected. The original bill stated that current controls on the transfer and possession of biological pathogens were "designed to prevent accidents, not theft," which according to the Justice Department is simply not accurate. This inaccurate statement has been eliminated.

Fourth, the original bill required reports on issues within the jurisdiction of the Senate Judiciary Committee without any direction that those reports be submitted to that Committee. For example, section 9 of the bill required the FBI to submit to the Select Committees on Intelligence of the Senate and the House a feasibility report on establishing a new capability within the FBI for the dissemination of law enforcement information to the intelligence community. My suggestion that these reports also be required to be submitted to the Judiciary Committees has been adopted.

Fifth, the bill requires reports, with recommendations for appropriate legislative or regulation changes, by the Attorney General and the Secretary of Health and Human Services on safeguarding biological pathogens at research labs, pharmaceutical companies and other facilities in the United

States. No definition of "biological pathogen" is included in the bill and the scope of these reports could therefore cover a vast array of biological materials. To address this concern over the potentially broad focus of this provision, the bill has been amended to include a direction to the Attorney General and the Secretary of Health and Human Services to define and determine the type and classes of pathogens that should be covered by any recommendations.

Finally, the bill would require reimbursement for professional liability insurance for law enforcement officers performing official counterterrorism duties and for intelligence officials performing such duties outside the United States. I scoured the record in vain for explanatory statements by the sponsors of this bill about their views on the need for this provision. Current law curiously provides for payments of only half the costs of professional liability insurance for law enforcement officers and federal judges to cover the costs of legal liability for damages resulting from any tortious act, error of omission while in the performance of the employee's duties and the costs of legal representation in connection with any administrative or judicial proceeding relating to such act, error or omission. 5 U.S.C. § 5941 prec. note. The Bremer-Sonnenberg Commission report recommended that the Congress amend current law to mandate full reimbursement of the costs of personal liability insurance for FBI and CIA counterterrorism agents. In light of this explanation, I am prepared to proceed while noting that this is an area that deserves more comprehensive review. The same reasons for providing full reimbursement for counterterrorism officers may apply to other law enforcement and intelligence officers.

The bill has been greatly improved since its first iteration, and I am pleased to withdraw my objection.

Mr. WARNER. I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 4358) was agreed to.

Mr. WARNER. I ask unanimous consent the bill be read a third time and passed, as amended, the motion to reconsider be laid upon the table, and any statements relating to this bill be printed in the RECORD.

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

The bill (S. 3205), as amended, was read the third time and passed, as follows:

S. 3205

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Counterterrorism Act of 2000".

SEC. 2. SENSE OF CONGRESS ON THE ATTACK ON THE U.S.S. COLE.

(a) FINDINGS.—Congress makes the following findings:

(1) On October 12, 2000, the United States naval vessel U.S.S. Cole was attacked in Aden, Yemen.

(2) The attack occurred while the U.S.S. Cole was refueling, and was unprovoked.

(3) Seventeen United States sailors were killed in the attack, and thirty-nine were injured.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States Government should—

(1) continue to take strong and effective actions to investigate rapidly the unprovoked attack on the United States naval vessel U.S.S. Cole;

(2) ensure that the perpetrators of this cowardly act are swiftly brought to justice; and

(3) take appropriate actions to protect from terrorist attack all other members and units of the United States Armed Forces that are deployed overseas.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) The Commission on National Security in the 21st Century, chaired by former Senators Hart and Rudman, concluded that "[s]tates, terrorists, and other disaffected groups will acquire weapons of mass destruction and mass disruption, and some will use them. Americans will likely die on American soil, possibly in large number."

(2) United States counterterrorism efforts must be improved to meet the evolving threat of international terrorism against United States nationals and interests. The bipartisan National Commission of Terrorism chaired by Ambassador Paul Bremer and Maurice Sonnenberg was mandated by Congress to evaluate current United States policy and make recommendations on improvements. This Act stems from the findings and recommendations of that Commission.

(3) The face of terrorism has changed significantly over the last 25 years. With the fall of the Soviet Union, many state-sponsored terrorist groups have been replaced by more loosely knit organizations with varying motives. These transnational terrorist networks are more difficult to track and penetrate than state sponsored terrorist groups, and their actions are more difficult to predict.

(4) State support of terrorism has not disappeared. Despite political change in Iran, the country continues to be the foremost state sponsor of terrorism in the world. In April 2000, the Department of State issued "Patterns of Global Terrorism", which provides a detailed account of Iran's continued support of terrorism.

(5) According to the report of the National Commission on Terrorism, there are indications of Iranian involvement in the 1996 bombing of the Khobar Towers complex in Saudi Arabia, in which 19 United States soldiers were killed and more than 500 injured. In October 1999, President Clinton officially requested cooperation from Iran in the investigation of the bombing. Thus far, Iran has not responded to this request.

(6) Terrorist attacks are becoming more lethal. A growing number of terrorist attacks are designed to kill the maximum number of people. Although conventional explosives have remained the weapon of choice, terrorist groups are investing in the acquisition of unconventional weapons such as nuclear, chemical, and biological agents.

(7) Syria was placed on the first list of state-sponsors of terrorism by the United States Government in 1979, due to its long history of using terrorism to advance its interests. Syria continues to support terrorist training and logistics.

(8) According to the National Commission on Terrorism, the 1995 guidelines of the Central Intelligence Agency on the use of terrorists as informants set up complex procedures for seeking approval to recruit as informants terrorists who have been involved in human rights violations. That Commission found that these guidelines have inhibited the recruitment of essential, if sometimes unsavory, terrorist informants. As a result, that Commission concluded that the United States has relied too heavily on foreign intelligence services in attempting to uncover information about terrorist organizations.

(9) No other country, much less any subnational organization, can match United States scientific and technological prowess (including quality control) in biotechnology and pharmaceutical production, electronics, computer science, and other pursuits that could help overcome and defeat the technologies used by future terrorists.

(10) Currently, the United States focuses its efforts to discourage private financial support to terrorists on prosecutions under the provisions of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132) and the amendments made by that Act. Under an amendment made by that Act, section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) requires the Secretary of State to designate groups that threaten United States interests and security as Foreign Terrorist Organizations (FTOs). There are currently 29 FTOs. The National Commission on Terrorism recommended that the Secretary of State ensure that the list of FTO designations is credible and updated regularly.

(11) It is in the interest of the United States that the Federal Government take a broader approach to cutting off the flow of financial support for terrorism from within the United States. Anyone providing to terrorist organizations funds that he or she knows will be used to support terrorist acts should be prosecuted under all relevant statutes, including statutes addressing money laundering, conspiracy, and tax or fraud violations. In addition, Federal agencies such as the Office of Foreign Assets Control (OFAC) of the Internet Revenue Service and the Customs Service should be better utilized to thwart terrorist fundraising. Such activities should not violate constitutional rights and values.

(12) Current controls on the transfer and possession of biological pathogens that could be used in biological weapons are inadequate. Controls on the equipment needed to turn such pathogens into weapons are virtually nonexistent. The National Commission on Terrorism concluded that the standards for the storage, transport, and handling of biological pathogens should be as rigorous as the current standards for the physical protection and security of critical nuclear materials.

SEC. 4. SYRIA.

It is the sense of Congress that the United States should keep Syria on the list of countries who sponsor terrorism until Syria—

(1) shuts down training camps and other terrorist support facilities in Syrian-controlled territory; and

(2) prohibits financial or other support of terrorists through Syrian-controlled territory.

SEC. 5. IRAN.

It is the sense of Congress that the United States should keep Iran on the list of countries who sponsor terrorism, and make no concessions to Iran, until Iran—

(1) demonstrates that it has stopped supporting terrorism; and

(2) cooperates fully with the United States in the investigation into the 1996 bombing of the Khobar Towers complex in Saudi Arabia.

SEC. 6. GUIDELINES ON RECRUITMENT OF TERRORIST INFORMANTS.

(a) **REPORT ON GUIDELINES.**—Not later than six months after the date of the enactment of this Act, the Director of Central Intelligence shall submit to Congress, including the Committees on the Judiciary of the Senate and the House of Representatives, a report on the Director's response to the findings of the National Commission on Terrorism regarding the recruitment of terrorist informants.

(b) **REPORT ELEMENTS.**—The report under subsection (a) shall set forth the following:

(1) A detailed response to the findings referred to in that subsection, and a detailed description of any other policy considerations that prompted the 1995 guidelines of the Central Intelligence Agency on the use of terrorists as informants.

(2) Recommendations, if any, for legislation to enhance the recruitment of terrorist informants, including any limitations that may be necessary to assure that the United States does not encourage human rights abuse abroad.

SEC. 7. REVIEW OF AUTHORITY OF FEDERAL AGENCIES TO ADDRESS CATASTROPHIC TERRORIST ATTACKS.

(a) **REVIEW REQUIRED.**—The Attorney General shall conduct a review of the legal authority of various Federal agencies, including the Department of Defense, to respond to, and to prevent, pre-empt, detect, and interdict, catastrophic terrorist attacks.

(b) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Attorney General shall submit to the appropriate committees of Congress a report on the review conducted under subsection (a). The report shall include any recommendations that the Attorney General considers appropriate, including recommendations whether additional legal authority for particular Federal agencies is advisable in order to enhance the capability of the Federal Government to respond to, and to prevent, pre-empt, detect, and interdict, catastrophic terrorist attacks.

(c) **DEFINITIONS.**—In this section:

(1) **APPROPRIATE COMMITTEES OF CONGRESS.**—The term "appropriate committees of Congress" means the following:

(A) The Committees on Appropriations, Armed Services, and the Judiciary and the Select Committee on Intelligence of the Senate.

(B) The Committees on Appropriations, Armed Services, International Relations, and the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) **CATASTROPHIC TERRORIST ATTACK.**—The term "catastrophic terrorist attack" means a terrorist attack against the United States perpetrated by a state, substate, or nonstate actor that involves mass casualties or the use of a weapon of mass destruction.

SEC. 8. LONG-TERM RESEARCH AND DEVELOPMENT TO ADDRESS CATASTROPHIC TERRORIST ATTACKS.

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(1) there has not been sufficient emphasis on long-term research and development on

technologies useful in fighting terrorism; and

(2) the United States should make better use of its considerable accomplishments in science and technology to prevent or address terrorist attacks in the future, particularly attacks involving chemical, biological, or nuclear agents.

(b) **ESTABLISHMENT OF PROGRAM.**—Not later than one year after the date of the enactment of this Act, the President shall establish a comprehensive program (including a comprehensive set of requirements for the program) of long-term research and development relating to science and technology necessary to prevent, pre-empt, detect, interdict, and respond to catastrophic terrorist attacks.

(c) **REPORT ON PROPOSED PROGRAM.**—Not later than 30 days before the commencement of the program required by subsection (b), the President shall submit to Congress a report on the program. The report on the program shall include the following:

(1) A description of the proposed organization and mission of the program.

(2) A description of the current capabilities of the Federal Government to rapidly identify and contain an attack in the United States involving chemical or biological agents, including any proposals for future enhancements of such capabilities that the President considers appropriate.

(d) **CATASTROPHIC TERRORIST ATTACK DEFINED.**—In this section, the term "catastrophic terrorist attack" means a terrorist attack against the United States perpetrated by a state, substate, or nonstate actor that involves mass casualties or the use of a weapon of mass destruction.

SEC. 9. DISSEMINATION OF LAW ENFORCEMENT INFORMATION TO THE INTELLIGENCE COMMUNITY.

(a) **REPORT ON ESTABLISHMENT OF INTELLIGENCE REPORTING FUNCTION.**—Not later than 180 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives a report on the feasibility of establishing within the Bureau a comprehensive intelligence reporting function having the responsibility for disseminating among the elements of the intelligence community information collected and assembled by the Bureau on international terrorism and other national security matters.

(b) **REPORT ELEMENTS.**—The report under subsection (a) shall include the following:

(1) A description of the requirements applicable to the creation of the function referred to in that subsection, including the funding required for the function.

(2) A discussion of the legal and policy issues, including any reasonable restrictions on the sharing of information and the potential effects on open criminal investigations, associated with disseminating to the elements of the intelligence community law enforcement information relating to international terrorism and other national security matters.

SEC. 10. DISCLOSURE BY LAW ENFORCEMENT AGENCIES OF CERTAIN INTELLIGENCE OBTAINED BY INTERCEPTION OF COMMUNICATIONS.

(a) **REPORT ON AUTHORITIES RELATING TO SHARING OF CRIMINAL WIRETAP INFORMATION.**—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the Committee on the Judiciary

and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives a report on the legal authorities that govern the sharing of criminal wiretap information under relevant United States laws, including section 104 of the National Security Act of 1947 (50 U.S.C. 403-4). The report shall include—

(1) a description of the type of information that can be shared by the Department of Justice or other United States law enforcement agencies with elements of the United States intelligence community, including a description of all such information that the Department of Justice or other such law enforcement agencies currently share with elements of the United States intelligence community and the legal limitations if any, that apply to the use of such information by elements of the intelligence community; and

(2) recommendations, if any, for such legislative language as the President considers appropriate to improve the capability of the Department of Justice, or other law enforcement agencies, to share foreign intelligence information or counterintelligence information with elements of the United States intelligence community on matters such as counterterrorism.

(b) **DEFINITIONS.**—As used in this section, the terms "foreign intelligence" and "counterintelligence" have the meanings given those terms in paragraphs (2) and (3), respectively, of section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

SEC. 11. JOINT TASK FORCE ON TERRORIST FUNDRAISING.

(a) **SENSE OF CONGRESS.**—It is the sense of the Congress that—

(1) many terrorist groups secretly solicit and exploit the resources of international nongovernmental organizations, companies, and wealthy individuals;

(2) the Federal Government could do more to utilize all the tools available to the Federal Government to prevent, deter, and disrupt the fundraising activities of international terrorist organizations; and

(3) the employment of any such tools to combat terrorism must not violate speech, association, and equal protection rights guaranteed by the Constitution of the United States.

(b) **ESTABLISHMENT OF JOINT TASK FORCE.**—Not later than six months after the date of the enactment of this Act, the President shall establish a joint task force for purposes of developing and implementing a broad approach toward discouraging the fundraising activities of international terrorist organizations. The approach shall utilize all criminal, civil, and administrative sanctions available under Federal law, including sanctions for money laundering, tax and fraud violations, and conspiracy. The approach shall not infringe upon constitutional and civil rights in the United States.

(c) **REPORT.**—Not later than one year after the date of the enactment of this Act, the joint task force established under subsection (b) shall submit to Congress a report on the activities of the joint task force. The report shall include any findings and recommendations (including recommendations for modifications of United States law or policy) that the joint task force considers appropriate regarding United States efforts to thwart the fundraising activities of international terrorist organizations while protecting constitutional and civil rights in the United States.

SEC. 12. IMPROVEMENT OF CONTROLS ON PATHOGENS AND EQUIPMENT FOR PRODUCTION OF BIOLOGICAL WEAPONS.

(a) **REPORT ON IMPROVEMENT OF CONTROLS.**—(1) Not later than one year after the date of the enactment of this Act, the Attorney General shall submit to Congress a report on the means of improving United States controls of biological pathogens and the equipment necessary to develop, produce, or deliver biological weapons.

(2) Subject to paragraph (3), the report under paragraph (1) should include the following:

(A) A list of the equipment identified by the Attorney General, in consultation with the Secretary of Defense, the Secretary of Health and Human Services, the Director of Central Intelligence, other appropriate Federal officials, and other appropriate members of public and private organizations, as critical to the development, production, or delivery of biological weapons.

(B) Recommendations, if any, for such legislative language as the Attorney General considers appropriate to make illegal the possession of the biological pathogens by anyone who is not properly certified for the possession of such pathogens, or for other than a legitimate purpose.

(C) Recommendations, if any, for such legislative language as the Attorney General considers appropriate to control the domestic sale and transfer of the equipment identified under subparagraph (A), including any appropriate steps to track, tag, or otherwise mark or monitor such equipment.

(3) The recommendations of the Attorney General under paragraph (2) shall take into consideration the impact of additional controls on legitimate industrial or medical activities, and shall include an assessment of the economic and scientific effects of such controls on such activities.

(4) The Attorney General shall consult with the Secretary of Health and Human Services in preparing any recommendations under paragraph (2)(B), and shall include in the report under paragraph (1) a detailed description of the methodology and criteria used to define and determine the types and classes of pathogens covered by such recommendations.

(b) **IMPROVED SECURITY OF FACILITIES.**—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation with other appropriate Federal officials and appropriate members of public and private organizations, shall submit to Congress a report with detailed analysis and recommendations for appropriate regulations, or modifications to current law, to enhance the standards for the physical protection and security of the biological pathogens described in subsection (a) at research laboratories and other facilities in the United States that create, possess, handle, store, or transport such pathogens in order to protect against the theft or other diversion for illegitimate purposes of such pathogens from such laboratories and facilities. The report shall include a detailed description of the methodology and criteria used to define and determine the types and classes of pathogens covered by the report.

SEC. 13. REIMBURSEMENT OF PERSONNEL PERFORMING COUNTERTERRORISM DUTIES FOR PROFESSIONAL LIABILITY INSURANCE.

(a) **REQUIREMENT FOR FULL REIMBURSEMENT.**—(1) Notwithstanding any other provision of law and subject to paragraph (2), the head of an agency employing a qualified em-

ployee shall reimburse the qualified employee for the costs incurred by the qualified employee for professional liability insurance.

(2) Reimbursement of a qualified employee under paragraph (1) shall be contingent on the submission by the qualified employee to the head of the agency concerned of such information or documentation as the head of the agency concerned shall require.

(3) Amounts for reimbursements under paragraph (1) shall be derived from amounts available to the agency concerned for salaries and expenses.

(b) **QUALIFIED EMPLOYEE.**—For purposes of this section, the term “qualified employee” means an employee of an agency whose position is that of—

(1) a law enforcement officer performing official counterterrorism duties; or

(2) an official of an element of the intelligence community performing official counterterrorism duties outside the United States.

(c) **DEFINITIONS.**—In this section:

(1) **AGENCY.**—The term “agency” means any Executive agency, as that term is defined in section 105 of title 5, United States Code, and includes any agency of the Legislative Branch of Government.

(2) **ELEMENT OF THE INTELLIGENCE COMMUNITY.**—The term “element of the intelligence community” means any element of the intelligence community specified or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(3) **LAW ENFORCEMENT OFFICER; PROFESSIONAL LIABILITY INSURANCE.**—The terms “law enforcement officer” and “professional liability insurance” have the meanings given those terms in section 636(c) of the Treasury, Postal Service, and General Government Appropriations Act, 1997 (5 U.S.C. prec. 5941 note).

Mrs. FEINSTEIN. Mr. President, today the Senate passed by unanimous consent important legislation Senator KYL and I sponsored that seeks to improve the United States’ ability to prevent and respond to terrorist attacks. This bill, S. 3205, the Counterterrorism Act of 2000—together with a Kyl-Feinstein amendment making a few technical changes—implements major recommendations from a bipartisan, blue-ribbon commission on terrorism.

Let me describe what the bill would do. First, it urges that the U.S. government continue to take strong and effective actions to investigate the recent attack on the U.S.S. *Cole* and ensure that the perpetrators are brought to justice. The assault on the *Cole* is the worst against the U.S. military since the bombing of an Air Force barracks in Saudi Arabia killed 19 airmen in 1996. It is also the worst attack on a Navy ship since an Iraqi missile struck an American guided-missile frigate in 1987, killing 37 sailors.

Second, the bill requires the Department of Justice to review legal authority of federal agencies responsible for responding to a catastrophic terrorist attack and determine whether additional legal authority is necessary.

Third, the bill requires the president to establish a program for long-term research and development to counter catastrophic terrorist attacks and sub-

mit a report to Congress on this program. It also expresses the sense of Congress that there should be more long-term research and development in this area.

Fourth, the bill mandates that the attorney general issue a report on how to improve U.S. controls on biological pathogens and the equipment necessary to produce biological weapons, and requires the Health & Human Services secretary to issue a report on any appropriate actions that should be taken to protect against unlawful diversion of pathogens.

Fifth, the bill requires that the president establish a joint task force to develop a broad approach toward discouraging the fundraising activities of international terrorist organizations and that the task force issue a report.

Sixth, the bill requires the FBI to report on whether it can set up a central mechanism to distribute intelligence information it gleans about international terrorists to other members of the intelligence community.

Seventh, the bill directs the president to review the type of information shared by U.S. law enforcement agencies and intelligence agencies as well as legal limitations on the sharing of this information. The president shall provide any recommendations regarding the sharing of foreign intelligence or counterintelligence information between such agencies.

Eighth, the bill mandates that the CIA shall issue a report responding to the Commission on Terrorism’s finding that the CIA should scrap a internal classified guideline requiring CIA agents to get approval from headquarters before recruiting unsavory individuals to act as informants about terrorism.

Ninth, the bill expresses the Sense of Congress that Syria and Iran should remain on the list of countries that sponsor terrorism.

Finally, the bill would ensure that federal counterintelligence personnel be fully reimbursed for buying insurance they purchase to protect themselves from liability if they are sued for their officially authorized activities. Currently, the government reimburses federal criminal law enforcement officers, supervisors, and management officials for one-half of their insurance expenses. These individuals purchase professional liability insurance because government representation may not be available to them.

However, FBI special agents and CIA officers who do counterterrorism work may not be reimbursed at all when they buy such insurance. This is particularly unfortunate because counterterrorism work is so risky—especially when the work occurs overseas. There can be few more dangerous tasks than infiltrating a terrorist cell in, say, Yemen or Afghanistan.

The Kyl-Feinstein Counterterrorism Act of 2000 is not a panacea for the

problem of terrorism. Rather, it seeks to implement a number of specific improvements to our counterterrorism policy unanimously suggested by the Commission on Terrorism, a bipartisan group of experts.

The bill also lays the groundwork for a number of further improvements. We will be revisiting many of the issues covered by the bill in the next Congress once we receive more detailed information and recommendations from the Executive Branch. I look forward to working with my colleagues in Congress and with the next Administration to implement S. 3205.

I believe that we need to take strong action to combat terrorism. There is no question that terrorist attacks will continue and that they will become more deadly. Terrorists today often act out of a visceral hatred of the U.S. or the West and seek to wreak maximum destruction and kill as many people as possible.

At the same time, I believe that our counterterrorism policy must be conducted in a way that remains consistent with our democratic values and our commitment to an open, free society.

In many ways, the Kyl-Feinstein Counterterrorism Act of 2000 is a counterpart bill to the Justice for Victims of Terrorism Act that recently passed the Senate 95 to 0. That legislation, which I cosponsored, will make it easier for American victims of terrorism abroad to collect court-awarded compensation and ensure that the state sponsors of terrorism pay a price for their crimes.

While I strongly support assisting terrorist victims, I also believe that we need to do more to prevent Americans from becoming victims of terrorism in the first place. Thus, I am glad that the Senate has acted to pass S. 3205 with such dispatch. It is crucial to act now before terrorists strike again, killing and injuring more Americans and leaving more families grieving. I urge the House to pass S. 3205 before we adjourn.

In conclusion, I want to thank my good friend Senator KYL for his tireless efforts to get this bill passed. His work, as always, has been invaluable.

I also thank my other colleagues for their assistance in helping us pass this bill. I know Senator LEAHY, for instance, initially had a number of concerns with the legislation. I am grateful for the time he spent working through these issues with us, and I am glad that we can move this bill forward unanimously.

**UNANIMOUS CONSENT
AGREEMENT—H.R. 5633**

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate receives from the House H.R. 5633, the appropriations bill to fund the Dis-

trict of Columbia, if the text is identical to the text I now send to the desk, then the bill be considered passed and the motion to reconsider laid upon the table.

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

Mr. WARNER. I now send the text of the bill to the desk.

The PRESIDING OFFICER. The bill will be received.

**ORDERS FOR TUESDAY,
DECEMBER 5, 2000**

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it recess until the hour of 12 noon on Tuesday, December 5, under the provisions of H. Con. Res. 442.

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

Mr. WARNER. I further ask consent that when the Senate reconvenes on Tuesday, December 5, the Journal of proceedings be approved to date, and following the leaders' time, there be a period for the transaction of morning business until the hour of 12:30 p.m., with Members permitted to speak for up to 5 minutes each.

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

PROGRAM

Mr. WARNER. The Senate will be considering a continuing resolution on Tuesday, December 5, and may be considering other legislative items. Therefore, votes could occur during Tuesday's session of the Senate. All Senators will be notified via the hotline system as to those votes when it becomes clear as to their time.

Again, I wish all Senators a safe and happy Thanksgiving. I do that on behalf of the bipartisan leadership in the Senate. I look forward to working with all Senators when they return on Tuesday, the 5th.

ORDER FOR RECESS

Mr. WARNER. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the provisions of H. Con. Res. 442, following the remarks of Senator DASCHLE, should he seek the floor, for such period not to exceed 15 minutes.

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

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

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

**SENATE BUSINESS AND
ELECTIONS**

Mr. DASCHLE. Mr. President, although the Senate will not resume work in earnest today on the issues remaining before the 106th Congress, we certainly hope that when we do return on the 5th of December we will be able to complete action on the appropriations bills, the minimum wage increase, the Balanced Budget Refinement Act, and deal with the immigration issue, as well as a fair and balanced tax relief package.

In the 3 weeks until then, I certainly hope that both parties and the administration will redouble their efforts to reach agreement on these important issues. We do not have to wait until we get back. It is so troubling that we are so close to the end of the calendar year and we do not have as much to show for our efforts over the last 2 years as I would have liked.

The lameduck session will give us an opportunity to make progress on each of those issues. I hope we will seize that opportunity.

I have spoken with the majority leader about this issue, and about our desire to complete our work in a positive way. I think we agree: We need to work closely together in the final days of this Congress. He certainly reiterated his desire to do that.

When we left before the election, everyone assumed we would return to a relative certainty. We assumed we would have a President-elect. We assumed we would know the balance of power in the next Congress. Of course, to everyone's surprise, we still do not know either of these things.

The situation in which we now find ourselves is virtually unprecedented. It certainly is unusual. But with the elections this close, a period of uncertainty is certainly unavoidable.

While none of us has ever seen such a close Presidential election, some of us have seen this on a smaller scale. I am one of those people.

In 1978, in my first race for election to the House of Representatives, I was behind by 28 votes at the end of election night and was declared the loser. The next day, amid much confusion, I was actually declared the winner by 14 votes. Talk about a roller coaster ride. And that was just the first day.

Over the next few months, after more recounts, and the discovery of computational errors, and more confusion, the election went all the way to the South Dakota Supreme Court.

In August of 1979, the court heard oral arguments and examined every ballot.

Finally, on November 27, 1979—more than a year after the election—the South Dakota Supreme Court issued