

I thank my colleague from Pennsylvania for allowing me this extra opportunity to speak.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. MILLER. I ask unanimous consent to speak as in morning business for up to 5 minutes.

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

A LOYAL ALLY

Mr. MILLER. Mr. President, I rise today to offer thanks and praise for a world leader who has been as stalwart and as loyal an ally for the United States as anyone could ever ask.

These past few weeks, British Prime Minister Tony Blair has gone above and beyond the call of duty for America. He has left no doubt that we will be able to count on him and his country over the long haul.

To paraphrase his own words, he was with us at the first and he will stay with us to the last.

He was there in the gallery of the House of Representatives when President Bush made his moving and forceful speech to this Nation in a joint session of this Congress.

He was there at Ground Zero in New York City, witnessing the destruction with his own eyes and mourning what he called "the slaughter of thousands of innocents."

He was there in Pakistan, near the dangerous heart of this war, reassuring a nervous Pakistani President that he made the right decision in choosing the United States over the Taliban regime.

Since September 11, Tony Blair has served valiantly as our voluntary ambassador to the world.

In London, Berlin, Paris, New York, Washington, Brussels, Moscow, Islamabad, New Delhi, and Geneva, Blair has rallied international leaders and built a coalition of support for the United States. He has done so with a diplomacy, eloquence and strong resolve reminiscent of Winston Churchill during his finest hours.

In his latest brilliant stroke, Blair acted swiftly when he saw Osama bin Laden's videotaped speech Sunday night. Blair immediately summoned a reporter from the Arabic network to his office at 10 Downing Street and taped his own strong rebuttal to bin Laden. It aired on the same day, on the same Arabic network.

It should not be surprising that Blair would rise to the occasion as ably and powerfully as he has. The British have a tough, resolute attitude when it comes to defending themselves. They are willing to take risks on the battlefield. They are willing to risk casualties for the greater good. They are the ones you want on your side in times like these.

He was with us at the first, and he will stay with us to the last, he said.

For that, we owe Tony Blair our deepest gratitude. We could not ask any more of him.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, in the absence of any other Senator seeking recognition, I ask unanimous consent that I be permitted to speak up to 20 minutes as in morning business.

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

FEDERAL GOVERNMENT NEEDS STRUCTURAL REORGANIZATION

Mr. SPECTER. Mr. President, I have sought recognition to discuss the pending emergency caused by the horrific terrorist attacks on September 11. There is a need for some structural reorganization of the Federal Government in accordance with the recommendations of a number of distinguished commissions which have studied these problems and in accordance with our own findings, as we have worked through the matters in the Senate Intelligence Committee and the Senate Judiciary Committee. There is also the need for legislation to expand the powers of law enforcement on terrorists.

With respect to the newly created Office of Homeland Security, it is my thought there needs to be a structure whereby the position is made a Cabinet position. The Federal Government is fortunate to have secured the services of former Governor Tom Ridge of Pennsylvania to take on this responsibility. For the moment, the office has been created in the executive branch by an Executive Order, and I believe former Governor Ridge is correct when he says, even though other Government officials may not necessarily listen to him if there are turf battles, they certainly will listen to the President. That, I do believe, is true, as former Governor Ridge has represented it.

When we talk about homeland security and that function, we are talking about something which needs to be institutionalized in order to go beyond the term of any President, to go beyond the term of any person who is in charge of that Department, and that, in accordance with our structure of Government, requires legislative action, in my judgment. This is something which we will have to work through with President Bush, with former Governor Ridge, and with the executive branch. However, I offer these thoughts as many Members of Congress are now considering this issue and considering legislation.

Representative THORBERRY has already introduced legislation in the House of Representatives. Senator LIEBERMAN is working on similar legislation. Senator ROBERT GRAHAM of Florida is working on legislation, as well. My staff and I have been in the

process of working on legislation which I am not yet prepared to introduce, but at the conclusion of these remarks I will ask that draft copies of two bills be printed in the RECORD.

We have had a number of very distinguished commissions analyze these problems. We have had the Hart-Rudman Commission analyze the problems directed to a secure national homeland. That commission pointed out that the keys to prevention are the following tools: 1. diplomacy; 2. U.S. diplomatic, intelligence, and military presence overseas; 3. vigilant systems of border security and surveillance. In order to enhance the effectiveness of the third key, the Hart-Rudman Commission recommended creating a national homeland security agency which would consist of the Coast Guard, the Customs Service, the Border Patrol, and FEMA, the Federal Emergency Management Agency. The legislation I am submitting today, which is in draft form, would adopt the recommendations of the Hart-Rudman Commission.

There has been another distinguished commission, the Brown-Rudman Commission, which has studied the issues of intelligence and has come up with a method and a procedure for streamlining and restructuring the intelligence community.

One of the considerations is that in many Departments of the Federal Government, there are smaller intelligence agencies, for example, in the Departments of Treasury, State, Agriculture, and many other Departments.

At the present time, there is no effective way for dealing with all of these various Departments. The recommendation of the Brown-Rudman Commission was to consolidate and centralize, to give greater authority and power to the Director of Central Intelligence. The Director is charged not only with the operation of the Central Intelligence Agency, but also with the oversight of all the intelligence functions in the United States.

Now, there has admittedly been some gaps and some failures—some major gaps and some major failures—in these turf battles. During the 1995–1996 session of Congress, I had the privilege of serving as the Chairman of the Senate Intelligence Committee. I served in that position for 2 years, in addition to the 6 other years of service on the Intelligence Committee. There is a term limit of eight years on the Intelligence Committee. During the course of that work, I saw the turf battles among the various agencies and became very deeply involved in the issue of weapons of mass destruction, finding that there were dozens of agencies dealing with that issue.

In the Intelligence Authorization Act for Fiscal Year 1996, a commission was created to study weapons of mass destruction. The commission was chaired by former CIA Director John Deutch,

and I served as the Vice Chairman of that commission. During the course of the commission work—work that was very similar to that of the Hart-Rudman Commission, the Rumsfeld Commission, and the Brown-Rudman Commission—we noted the difficulties accorded to all of these important activities. It was the judgment of that commission that the structure be given to the Vice President of the United States on the ground that he or she—whoever the Vice President may be—would be the only individual, except for the President, who could handle intelligence coordination and the kinds of turf battles which are inevitable when there are numerous intelligence agencies at the Departments of State, Defense, Treasury, and Justice.

So, it is my thought that we need to address the intelligence function so that we have the appropriate coordination and so that we do not have somebody on the FBI Watch List who enters the United States, buys an airplane ticket, and later becomes a terrorist, such as those that were part of the massive attack on September 11.

The legislation which I suggest seeks to accomplish a structure for homeland security and also revises the intelligence functions of the U.S. Government.

I ask unanimous consent to submit the text of a draft bill—and I emphasize that it is a draft because we are working on this with quite a number of Members—entitled “Homeland Defense Act of 2001.” I ask that this draft bill be printed in the CONGRESSIONAL RECORD at the conclusion of these remarks. I further ask unanimous consent that the text of a draft bill—and again, I emphasize draft because we are still working on it entitled “Intelligence Reform Act of 2001” be printed in the CONGRESSIONAL RECORD at the conclusion of these comments.

There being no objection, the draft bills were ordered to be printed in the RECORD, as follows:

S. —

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 “Homeland Defense Act of 2001”.

SEC. 2. DEPARTMENT OF HOMELAND SECURITY.

There is established an executive department of the United States to be known as the Department of Homeland Security.

SEC. 3. SECRETARY OF HOMELAND SECURITY.

(a) SECRETARY OF HOMELAND SECURITY.—There shall be at the head of the Department of Homeland Security the Secretary of Homeland Security, who shall be appointed by the President by and with the advice and consent of the Senate.

(b) DUTIES.—Subject to the authority, direction, and control of the President, the duties of the Secretary shall be the following:

(1) To plan, coordinate, and integrate United States Government activities relating to homeland security, including border security and emergency preparedness, and to

act as a focal point regarding natural and manmade crises and emergency planning.

(2) To work with State and local governments and executive agencies in protecting United States homeland security, and to support State officials through the use of regional offices around the country.

(3) To provide overall planning guidance to executive agencies regarding United States homeland security.

(4) To conduct exercise and training programs for employees of the Department and establish effective command and control procedures for the full range of potential contingencies regarding United States homeland security, including contingencies that require the substantial support of military assets.

(5) To annually develop a Federal response plan for homeland security and emergency preparedness.

(c) MEMBERSHIP ON NATIONAL SECURITY COUNCIL.—Section 101(a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended in the fourth sentence by striking paragraphs (5), (6), and (7) and inserting the following new paragraphs (5) and (6):

“(5) the Secretary of Homeland Security; and

“(6) each Secretary or Under Secretary of such other executive department, or of a military department, as the President shall designate.”

(d) PAY LEVEL.—Section 5312 of title 5, United States Code, is amended by adding at the end the following new item:

“Secretary of Homeland Security.”

SEC. 4. TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO DEPARTMENT OF HOMELAND SECURITY.

The authorities, functions, personnel, and assets of the following entities are hereby transferred to the Department of Homeland Security:

(1) The Federal Emergency Management Agency, the ten regional offices of which shall be maintained and strengthened by the Department.

(2) The United States Customs Service, which shall be maintained as a distinct entity within the Department.

(3) The Border Patrol of the Immigration and Naturalization Service, which shall be maintained as a distinct entity within the Department.

(4) The elements of the Immigration and Naturalization Service (other than elements covered by paragraph (3)) responsible for enforcement functions.

(5) The United States Coast Guard, which shall be maintained as a distinct entity within the Department.

(6) The Critical Infrastructure Assurance Office and the Institute of Information Infrastructure Protection of the Department of Commerce.

(7) The National Infrastructure Protection Center and the National Domestic Preparedness Office of the Federal Bureau of Investigation.

SEC. 5. ESTABLISHMENT OF AGENCIES AND OFFICES.

(a) AGENCIES.—The following agencies are hereby established within the Department of Homeland Security:

(1) AGENCY FOR PREVENTION.—The Agency for Prevention, which shall be responsible for the following:

(A) Overseeing and coordinating all United States border security activities.

(B) Developing border and maritime security policy for the United States.

(C) Developing and implementing international standards for enhanced security in transportation nodes.

(2) AGENCY FOR CRITICAL INFRASTRUCTURE PROTECTION.—The Agency for Critical Infrastructure Protection, which shall be responsible for the following:

(A) Acting as the Critical Information Technology, Assurance, and Security Officer of the Department to coordinate efforts to address the vulnerability of the United States to electronic or physical attacks on critical infrastructure of the United States, including utilities, transportation nodes, and energy resources.

(B) Overseeing the protection of such infrastructure and the physical assets and information networks that make up such infrastructure.

(C) Ensuring the maintenance of a nucleus of cyber security experts within the United States Government.

(D) Enhancing sharing of information regarding cyber security and physical security of the United States, tracking vulnerabilities and proposing improved risk management policies, and delineating the roles of various government agencies in preventing, defending, and recovering from attacks.

(E) Coordinating with the Federal Communications Commission in helping to establish cyber security policy, standards, and enforcement mechanisms, and working closely with the Commission on cyber security issues with respect to international bodies.

(F) Coordinating the activities of Information Sharing and Analysis Centers to share information on threats, vulnerabilities, individual incidents, and privacy issues regarding United States homeland security.

(G) Assuming the responsibilities carried out by the Critical Infrastructure Assurance Office before the date of the enactment of this Act.

(H) Assuming the responsibilities carried out by the National Infrastructure Protection Center before the date of the enactment of this Act.

(I) Supporting and overseeing the management of the Institute for Information Infrastructure Protection.

(3) AGENCY FOR EMERGENCY PREPAREDNESS AND RESPONSE.—The Agency for Emergency Preparedness and Response, which shall be responsible for the following:

(A) Carrying out all emergency preparedness and response activities carried out by the Federal Emergency Management Agency before the date of the enactment of this Act.

(B) Assuming the responsibilities carried out by the National Domestic Preparedness Office before the date of the enactment of this Act.

(C) Organizing and training local entities to respond to emergencies and providing State and local authorities with equipment for detection, protection, and decontamination in an emergency involving weapons of mass destruction.

(D) Overseeing Federal, State, and local emergency preparedness training and exercise programs in keeping with current intelligence estimates and providing a single staff for Federal assistance for any emergency (including emergencies caused by flood, earthquake, hurricane, disease, or terrorist bomb).

(E) Creating a National Crisis Action Center to act as the focal point for monitoring emergencies and for coordinating Federal support for State and local governments and the private sector in crises.

(F) Establishing training and equipment standards, providing resource grants, and encouraging intelligence and information sharing among the Department of Defense, the Federal Bureau of Investigation, the Central Intelligence Agency, State emergency management officials, and local first responders.

(G) Coordinating and integrating activities of the Department of Defense, the National Guard, and other Federal agencies into a Federal response plan.

(H) Coordinating activities among private sector entities, including entities within the medical community, with respect to recovery, consequence management, and planning for continuity of services.

(I) Developing and managing a single response system for national incidents in coordination with the Department of Justice, the Federal Bureau of Investigation, the Department of Health and Human Services, and the Centers for Disease Control.

(J) Maintaining Federal asset databases and supporting up-to-date State and local databases.

(b) OFFICES.—The following offices are hereby established within the Department:

(1) OFFICE OF SCIENCE AND TECHNOLOGY.—The Office of Science and Technology, which shall advise the Secretary regarding research and development efforts and priorities for the agencies established in subsection (a).

(2) OFFICE OF NATIONAL ASSESSMENT.—The Office of National Assessment, which shall assess and analyze all intelligence relating to terrorist threats to the United States.

SEC. 6. REPORTING REQUIREMENTS.

(a) BIENNIAL REPORTS.—The Secretary of Homeland Security shall submit to Congress on a biennial basis—

(1) a report assessing the resources and requirements of executive agencies relating to border security and emergency preparedness issues; and

(2) a report certifying the preparedness of the United States to prevent, protect against, and respond to natural disasters, cyber attacks, and incidents involving weapons of mass destruction.

(b) ADDITIONAL REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report—

(1) assessing the progress of the Department of Homeland Security in—

(A) implementing the provisions of this Act; and

(B) ensuring the core functions of each entity transferred to the Department are maintained and strengthened; and

(2) recommending any conforming changes in law necessary as a result of the enactment and implementation of this Act.

SEC. 7. COORDINATION WITH OTHER ORGANIZATIONS.

The Secretary of Homeland Security shall establish and maintain strong mechanisms for the sharing of information and intelligence with United States and international intelligence entities.

SEC. 8. PLANNING, PROGRAMMING, AND BUDGETING PROCESS.

The Secretary of Homeland Security shall establish procedures to ensure that the planning, programming, budgeting, and financial activities of the Department of Homeland Security comport with sound financial and fiscal management principles. Those procedures shall, at a minimum, provide for the planning, programming, and budgeting of activities of the Department using funds that are available for obligation for a limited number of years.

SEC. 9. ENVIRONMENTAL PROTECTION, SAFETY, AND HEALTH REQUIREMENTS.

The Secretary of Homeland Security shall—

(1) ensure that the Department of Homeland Security complies with all applicable environmental, safety, and health statutes and substantive requirements; and

(2) develop procedures for meeting such requirements.

SEC. 10. EFFECTIVE DATE.

This Act shall take effect six months after the date of the enactment of this Act.

S. —

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 “Intelligence Reform Act of 2001”.

TITLE I—INTELLIGENCE MATTERS

SEC. 101. ANNUAL DETERMINATION OF INTELLIGENCE PRIORITIES AND PLAN FOR EXECUTION OF INTELLIGENCE PRIORITIES.

(a) ANNUAL DETERMINATION OF PRIORITIES BY NATIONAL SECURITY COUNCIL.—Section 101(b) of the National Security Act of 1947 (50 U.S.C. 402(b)) is amended—

(1) in paragraph (1), by striking “and” at the end;

(2) in paragraph (2), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(3) determine on an annual basis the priorities of the United States with respect to the collection, analysis, and dissemination of intelligence.”

(b) ANNUAL PLAN FOR ADDRESSING PRIORITIES BY DIRECTOR OF CENTRAL INTELLIGENCE.—Section 103(c) of that Act (50 U.S.C. 403-3(c)) is amended—

(1) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8), respectively; and

(2) by inserting after paragraph (3) the following new paragraph (4):

“(4) prepare on an annual basis a plan for addressing the priorities of the United States with respect to the collection, analysis, and dissemination of intelligence as identified by the National Security Council in the most recent annual determination of such priorities under section 101(b)(3);”

SEC. 102. MODIFICATION OF POSITIONS AND RESPONSIBILITIES OF DEPUTY DIRECTORS OF CENTRAL INTELLIGENCE.

(a) ABOLISHMENT OF CURRENT POSITIONS AND ESTABLISHMENT OF NEW POSITIONS.—Subsection (b) of section 102 of the National Security Act of 1947 (50 U.S.C. 403) is amended by striking paragraphs (1) and (2) and inserting the following new paragraphs:

“(1) There is a Deputy Director of Central Intelligence for the Intelligence Community, who shall be appointed by the President, by and with the advice and consent of the Senate.

“(2) There is a Deputy Director of Central Intelligence for the Central Intelligence Agency, who shall be appointed by the President, by and with the advice and consent of the Senate.”

(b) DUTIES OF NEW POSITIONS OF DEPUTY DIRECTOR.—Subsection (d) of that section is amended to read as follows:

“(d) DUTIES OF DEPUTY DIRECTORS.—(1)(A) The Deputy Director of Central Intelligence for the Central Intelligence Agency shall assist the Director of Central Intelligence in carrying out the Director’s responsibilities under this Act.

“(B) The Deputy Director of Central Intelligence for the Central Intelligence Agency shall act for, and exercise the powers of, the Director of Central Intelligence during the Director’s absence or disability or during a vacancy in the position of the Director of Central Intelligence.

“(2) The Deputy Director of Central Intelligence for the Intelligence Community shall, subject to the direction of the Director of Central Intelligence, be responsible for coordinating the collection and analysis of intelligence by the elements of the intelligence community other than the Central Intelligence Agency, the Federal Bureau of Investigation, and the elements of the intelligence community within the Department of Defense.

“(3)(A) The Deputy Director of Central Intelligence for the Central Intelligence Agency takes precedence in the Office of the Director of Central Intelligence immediately after the Director of Central Intelligence.

“(B) The Deputy Director of Central Intelligence for the Intelligence Community takes precedence in the Office of the Director of Central Intelligence immediately after the Deputy Director of Central Intelligence for the Central Intelligence Agency.”

(c) CONFORMING AMENDMENT.—Subsection (e)(2) of that section is amended by striking subparagraphs (B) and (C) and inserting the following new subparagraphs:

“(B) The Deputy Director of Central Intelligence for the Central Intelligence Agency.

“(C) The Deputy Director of Central Intelligence for the Intelligence Community.”

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

SEC. 103. MODIFICATION OF COMPOSITION AND RESPONSIBILITIES OF NATIONAL INTELLIGENCE COUNCIL.

Subsection (b) of section 103 of the National Security Act of 1947 (50 U.S.C. 403-3) is amended to read as follows:

“(b) NATIONAL INTELLIGENCE COUNCIL.—(1) There is within the Office of the Director of Central Intelligence the National Intelligence Council (in this section referred to as the ‘Council’).

“(2) The Council shall be composed of the following:

“(A) The Director of Central Intelligence, who shall act as chair of the Council.

“(B) The Director of the Federal Bureau of Investigation.

“(C) The Deputy Director of Central Intelligence for the Intelligence Community.

“(D) The Deputy Director of Central Intelligence for the Central Intelligence Agency.

“(E) The Assistant Secretary of Defense for Command, Control, Communications, and Intelligence.

“(3)(A) The staff of the Council shall consist of the following:

“(i) Such staff of the National Intelligence Council as of the date of the enactment of the Intelligence Reform Act of 2001 as the Director of the Central Intelligence shall assign to the Council.

“(ii) The Community Management Staff.

“(iii) Such other senior analysts within the intelligence community, and substantive experts from the public sector or private sector, as the Director shall appoint to the Council.

“(B) The Director shall prescribe appropriate security requirements for staff appointed from the private sector as a condition of service on the Council, or as contractors of the Council or employees of such contractors, to ensure the protection of intelligence sources and methods while avoiding,

wherever possible, unduly intrusive requirements which the Director considers unnecessary for this purpose.

“(4) The Council shall have the following responsibilities:

“(A) To develop a program to improve the human intelligence capabilities of the Government, and in particular the human intelligence capabilities with respect to terrorism, including operational guidelines for activities under the program.

“(B) To develop a program to improve the collection and analysis by the Government of information on economic, science, and technology matters, including the use of open sources.

“(C) To carry out such other duties relating to the intelligence and intelligence-related activities of the Government as the Director considers appropriate.

“(5) The Director shall, on an annual basis, submit to Congress a report on the program under paragraph (4)(A). Each report shall include a description of activities under the program during the preceding year. Each report shall be in unclassified form, but may include a classified annex.”

SEC. 104. MODIFICATION OF PARTICIPATION OF DIRECTOR OF CENTRAL INTELLIGENCE IN APPOINTMENT OF OFFICIALS RESPONSIBLE FOR INTELLIGENCE-RELATED ACTIVITIES.

Section 106 of the National Security Act of 1947 (50 U.S.C. 403-6) is amended to read as follows:

“APPOINTMENT OF OFFICIALS RESPONSIBLE FOR INTELLIGENCE-RELATED ACTIVITIES

“SEC. 106. (a) CONSULTATION WITH DCI IN CERTAIN APPOINTMENTS.—In the event of a vacancy in a position referred to in subsection (b), the head of the department or agency having jurisdiction over the position shall consult with the Director of Central Intelligence before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy.

“(b) POSITIONS.—Subsection (a) applies to the following positions:

“(1) The Director of the National Security Agency.

“(2) The Director of the National Reconnaissance Office.

“(3) The Director of the National Imagery and Mapping Agency.

“(4) The Director of the Defense Intelligence Agency.

“(5) The Assistant Secretary of State for Intelligence and Research.

“(6) The Director of the Office of Nonproliferation and National Security of the Department of Energy.

“(7) The Assistant Director, National Security Division of the Federal Bureau of Investigation.”

SEC. 105. ASSESSMENT OF EFFECTIVENESS OF CURRENT TECHNICAL INTELLIGENCE CAPABILITIES.

(a) REQUIREMENT FOR REPORT.—Not later than one year after the date of the enactment of this Act, the Director of Central Intelligence shall submit to Congress a report containing a comprehensive assessment of the effectiveness of the current technological capabilities of the United States Government for the collection and analysis of intelligence. The assessment shall address, in particular, the collection of intelligence in cyberspace and the effect of new or emerging communications technologies on the collection and analysis of intelligence.

(b) FORM.—The report under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

TITLE II—PROLIFERATION MATTERS

SEC. 201. COORDINATION FOR COMBATING PROLIFERATION.

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by inserting after section 101 the following new sections:

“NATIONAL DIRECTOR FOR COMBATTING PROLIFERATION

“SEC. 101A. (a) ESTABLISHMENT OF POSITION.—There shall be within the Executive Office of the President a Deputy Assistant to the President for National Security Affairs who shall be known as the ‘National Director for Combating Proliferation’ (in this section referred to as the ‘National Director’).

“(b) RESPONSIBILITIES.—(1) The National Director shall—

“(A) advise the President and Vice President on proliferation-related matters, through the Assistant to the President for National Security Affairs; and

“(B) serve as Chair of the Council on Combating Proliferation established under section 101B.

“(2) In carrying out paragraph (1)(B), the National Director shall—

“(A) have the primary responsibility with in the executive branch of Government for ensuring the development of policy with regard to proliferation and export controls;

“(B) development of a detailed plan for Federal agencies to address the full range of proliferation-related issues and activities, including integrated strategies for technology development and acquisition, resource allocation, reducing the threat from the independent states of the former Soviet Union (as defined in section 3 of the FREEDOM Support Act), intelligence collection and analysis, and domestic response;

“(C) work with the Director of the Office of Management and Budget and the heads of other appropriate Federal agencies in accordance with paragraph (4);

“(D) consult with Congress on the plan developed under subparagraph (B); and

“(E) ensure that the requisite legal authorities are in effect to act against proliferation-related threats.

“(3)(A) The Director of the Office of Management and Budget shall establish a separate National Defense budget subfunction for proliferation-related activities in the President’s budget.

“(B) The Director of the Office of Management and Budget, working with the National Director and the head of each proliferation-related agency, shall establish a Government-wide database on budget execution of proliferation-related activities and develop goals and standards to evaluate those activities annually.

“(C) The head of each proliferation-related agency shall designate a senior proliferation budget manager.

“(D) No funds made available under the budget subfunction for proliferation-related activities may be reprogrammed or transferred without the prior approval of the National Director and the Director of the Office of Management and Budget.

“(E) In this paragraph, the term ‘proliferation-related agency’ means any of the Federal agencies specified in section 101B(b)(1)(A).

“(4) In carrying out responsibilities under this subsection, the National Director shall work through the Assistant to the President for National Security Affairs to ensure coordination with overall national security policy and planning.

“COUNCIL ON COMBATTING PROLIFERATION

“SEC. 101B. (a) ESTABLISHMENT.—There is established an interagency group to be

known as the ‘Council on Combatting Proliferation’ (in this section referred to as the ‘Council’), which shall be headed by the National Director for Combating Proliferation.

“(b) COMPOSITION.—(1) In addition to the National Director, the Council shall consist of 8 officials, as follows:

“(A) Six officials described in paragraph (2), of which number one each shall be designated by the heads of the following Federal agencies from among its employees:

“(i) The Department of State.

“(ii) The Department of Defense.

“(iii) The Department of Energy.

“(iv) The Department of Justice.

“(v) The Department of Commerce.

“(vi) The Central Intelligence Agency.

“(B) One senior official of the Office of Management and Budget.

“(C) One senior employee of the Office of the Vice President.

“(2) Each individual designated under paragraph (1)(A) shall be a senior official of the respective Federal agency who has responsibility for proliferation-related matters and who occupies a position or holds a rank to which the individual was appointed by the President, by and with the advice and consent of the Senate.

“(3) In addition to the membership of the Council provided for in this subsection, the National Director may invite other officials in the executive branch to participate in a nonvoting capacity in meetings of the Council.

“(c) FUNCTIONS.—The functions of the Council are to—

“(1) improve coordination between Federal agencies having responsibility for proliferation-related matters;

“(2) ensure close coordination and consultation between the National Director and those agencies; and

“(3) support the National Director in the development of a government-wide plan for the development, acquisition, and deployment of technology for combating proliferation by coordinating technology requirements of individual agencies.

“(d) STAFF SUPPORT.—The Council may employ and fix the compensation of staff personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for staff personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title. In addition, upon request, the National Security Council shall detail to the Council such staff personnel as the Council may require.”

(b) CLERICAL AMENDMENT.—The table of contents for the National Security Act of 1947 is amended by inserting after the item relating to section 101 the following new items:

“Sec. 101A. National Director for Combating Proliferation.

“Sec. 101B. Council on Combating Proliferation.”

SEC. 202. ANNUAL CONSOLIDATED REPORT ON COUNTER-PROLIFERATION ACTIVITIES OF THE UNITED STATES GOVERNMENT.

(a) ANNUAL REPORT.—Beginning not later than 180 days after the date of the enactment of this Act, and annually thereafter, the President shall submit to Congress a consolidated report updating (since submission of the last report under this section or, in the case of the initial report, since the last relevant report to Congress) the nature of the threat of the proliferation of weapons of

mass destruction and evaluating the progress achieved by the United States in responding to that threat.

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

(1) An update on nuclear proliferation in South Asia, including United States efforts to conclude a regional agreement on nuclear nonproliferation.

(2) An assessment of what actions are necessary to respond to violations committed by countries found not to be in full compliance with their binding proliferation-related commitments to the United States.

(3) An update on the nuclear programs and related activities of any country for which a waiver of sections 669 and 670 of the Foreign Assistance Act of 1961 is in effect.

(4) An update on the efforts by countries and sub-national groups to acquire chemical and biological weapons, and a description of the use of such weapons, if applicable.

(5) A description of any transfer by a foreign country of weapons of mass destruction or weapons of mass destruction-related material and technology.

(6) An update on efforts by the United States to achieve several specific nuclear proliferation-related goals, including the entry by the United States into multilateral negotiations with other nuclear states to reduce the nuclear arsenals of all foreign countries.

(7) An update on the acquisition by foreign countries of dual-use and other technology useful for the production of weapons of mass destruction.

(8) A description of the threats posed to the United States and its allies by weapons of mass destruction, including ballistic and cruise missiles, and the proliferation of such weapons.

(9) A description of the status of United States policy and actions with respect to arms control, nonproliferation, and disarmament.

(10) A review of all activities of United States departments and agencies relating to preventing nuclear proliferation.

(11) A requirement that the Department of Defense, the Department of State, the Department of Justice, the Department of Commerce, and the Department of Energy keep the congressional committees having oversight responsibilities for the respective department fully and currently informed about the nuclear proliferation-related activities of such department.

(12) A description of the efforts to support international nonproliferation activities.

(13) An update on counterproliferation activities and programs.

(14) A description of the activities carried out in support of counterproliferation programs.

(c) **REPEALS.**—The following provisions of law are hereby repealed:

(1) Section 620F(c) of the Foreign Assistance Act of 1961.

(2) Section 51(c) of the Arms Control and Disarmament Act.

(3) Section 735 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113).

(4) Section 308(a) of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (Public Law 102-182).

(5) Section 1097(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190).

(6) Section 1321(c) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484).

(7) Section 721(a) of the Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (Public Law 104-293).

(8) Section 284 of the National Defense Authorization Act For Fiscal Year 1998; Public Law 105-85).

(9) Section 51(a) of the Arms Control and Disarmament Act.

(10) Section 601(a) of the Nuclear Non-Proliferation Act of 1978.

(11) Section 602(c) of the Nuclear Non-Proliferation Act of 1978 (Public Law 95-242).

(12) Section 1505(e)(1) of the Weapons of Mass Destruction Act of 1992 (Public Law 102-484).

(13) Section 1503 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337).

(14) Section 1603(d) of the National Defense Authorization Act For Fiscal Year 1994 (Public Law 103-160).

TITLE III—OTHER MATTERS

SEC. 301. GRADUATE PROGRAM IN LANGUAGES AND CULTURES OF NATIONS PROVIDING HOME OR SUPPORT FOR TERRORISM OR ORGANIZED CRIME.

(a) **IN GENERAL.**—The Secretary of Homeland Security and the Director of the Federal Bureau of Investigation shall jointly enter into an agreement with one or more appropriate institutions of higher education to provide for one or more programs of education leading to the award to individuals referred to in subsection (b) of masters degrees or doctoral degrees in the languages, culture, or both of foreign countries that provide the home for or otherwise support terrorism or organized crime.

(b) **INDIVIDUALS ELIGIBLE FOR PARTICIPATION IN PROGRAMS.**—Individuals eligible to participate in a program of education under subsection (a) are as follows:

(1) Personnel of the Department of Homeland Security designated by the Secretary.

(2) Personnel of the Federal Bureau of Investigation designated by the Director.

(3) Such other personnel of the Federal Government as the Secretary and Director shall jointly designate.

(c) **FOREIGN COUNTRIES.**—The Secretary and Director shall jointly specify the foreign countries to be covered by the program or programs of education under this section.

(d) **ADDITIONAL REQUIREMENTS.**—The Secretary and Director may, in consultation with the institution of higher education concerned, establish such additional requirements for the award of a degree for a program of education under this section as the Secretary and the Director jointly consider appropriate.

EXPANSION OF LAW ENFORCEMENT ACTIVITY

Mr. SPECTER. Mr. President, I will further discuss briefly the terrorism legislation which we expect to come to the floor later today. I have a reservation of some 30 minutes on the unanimous consent agreement which will be propounded later by the majority leader, but I think a few comments are in order at this time.

I have no doubt that there is a need for expanded law enforcement authority. That has been demonstrated by the fact that offenses of terrorism do not have the availability of electronics surveillance which other offenses can employ. This is demonstrated by the fact

that there have been significant failures under the Foreign Intelligence Surveillance Act and that the Attorney General has represented a need to have additional detention for aliens who are subject to deportation.

When the Senate Judiciary Committee held a hearing two weeks ago yesterday, I questioned Attorney General John Ashcroft on the record about the scope of the Anti-Terrorism bill. The bill did not delineate the Attorney General's needs for law enforcement. Attorney General Ashcroft commented that what the Department of Justice had in mind was the detention of aliens who were subject to deportation. It may well be that there is existing authority for the Attorney General to accomplish that, but if additional authority is necessary, then I think the Congress is prepared to give that additional authority. However, the bill as drafted, did not so delineate the detention to those subject to deportation.

Attorney General Ashcroft further made representations about the need to change the Foreign Intelligence Surveillance Act. He said before looking to use content there would be a statement of probable cause. Again, in reviewing the specific legislation, that was not present in the bill, so there had to be a revision of the text of the bill.

The Senate Judiciary Committee had only an hour and 20 minutes of hearings, two weeks ago yesterday. The Constitutional Law Subcommittee had hearings last Thursday morning. I have grave concerns that there has not been sufficient deliberation that would establish a record and withstand a constitutional challenge in the Supreme Court of the United States. I will expand upon this point during the course of the consideration of the bill later today or tomorrow morning and will cite the Supreme Court decisions which have struck down acts of Congress where a sufficient showing of the deliberative process has been lacking.

In my judgment, that has been an overextension, a usurpation, by the Supreme Court of the United States of the separation of the powers. For the Supreme Court of the United States, in effect, to tell Congress that Congress has not "thought through" legislation that is part of the congressional function, that legislation violates a specific term or provision of the Constitution, that it is vague and ambiguous in violation of the due process clause of the 14th Amendment, or that Congress has run afoul of some other constitutional provision, then so be it. However, it seems to me an extraordinary stretch of judicial authority for the Supreme Court to say that the Congress has not been sufficiently deliberative, and that only the Supreme Court of the United States can gauge what is sufficiency on the deliberative process. That is the case law.

In the absence of hearings and in the absence of a record, there is a concern