records because of failure to comply with any provision of this subsection, the court shall order NSA to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this subsection.

''(vii) If at any time following the filing of a complaint pursuant to this paragraph NSA agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

''(viii) Any information filed with, or produced for the court pursuant to clauses (i) and (iv) shall be coordinated with the Director of Central Intelligence before submission to the court.

''(b) DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES.—(1) Not less than once every 10 years, the Director of the National Security Agency and the Director of Central Intelligence shall review the exemptions in force under subsection (a)(1) to determine whether such exemptions may be removed from a category of exempted files or any portion thereof. The Director of Central Intelligence must approve any determination to remove such exemptions.

''(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of a particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

''(3) A complainant that alleges that NSA has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

''(A) Whether NSA has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2004 or before the expiration of the 10-year period beginning on the date of the most recent review.

''(B) Whether NSA, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.''.

(c) CONFORMING AMENDMENTS.—(1) Section 701(b) of the National Security Act of 1947 (50 U.S.C. 431(b)) is amended by striking ''For purposes of this title'' and inserting ''In this section and section 702,''.

(2) Section 702(c) of such Act (50 U.S.C. 432(c)) is amended by striking ''enactment of this title'' and inserting ''October 15, 1984,''.

(3)(A) The title heading for title VII of such Act is amended to read as follows:

''TITLE VII—PROTECTION OF OPERATIONAL FILES''.

(B) The section heading for section 701 of such Act is amended to read as follows:

''PROTECTION OF OPERATIONAL FILES OF THE CENTRAL INTELLIGENCE AGENCY''.

(C) The section heading for section 702 of such Act is amended to read as follows:

''DECENNIAL REVIEW OF EXEMPTED CENTRAL INTELLIGENCE AGENCY OPERATIONAL FILES''.

(d) CLERICAL AMENDMENTS.—The table of contents for the National Security Act of 1947 is amended—

(1) by striking the items relating to sections 105C and 105D; and

(2) by striking the items relating to title VII and inserting the following new items:

''TITLE VII—PROTECTION OF OPERATIONAL FILES

''Sec. 701. Protection of operational files of the Central Intelligence Agency.

''Sec. 702. Decennial review of exempted Central Intelligence Agency operational files.

''Sec. 703. Protection of operational files of the National Imagery and Mapping Agency.

''Sec. 704. Protection of operational files of the National Reconnaissance Office.

''Sec. 705. Protection of operational files of the National Security Agency.''.

SEC. 502. PROTECTION OF CERTAIN NATIONAL SECURITY AGENCY PERSONNEL FROM TORT LIABILITY.

Section 11 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by adding at the end the following new subsection:

''(d)(1) Notwithstanding any other provision of law, agency personnel designated by the Director of the National Security Agency under subsection (a) shall be considered for purposes of chapter 171 of title 28, United States Code, or any other provision of law relating to tort liability, to be acting within the scope of their office or employment when such agency personnel take reasonable action, which may include the use of force, to—

''(A) protect an individual in the presence of such agency personnel from a crime of violence;

''(B) provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or

''(C) prevent the escape of any individual whom such agency personnel reasonably believe to have committed a crime of violence in the presence of such agency personnel.

''(2) Paragraph (1) shall not affect the authorities of the Attorney General under section 2679(d)(1) of title 28, United States Code.

''(3) In this subsection, the term 'crime of violence' has the meaning given that term in section 16 of title 18, United States Code.''.

SEC. 503. USE OF FUNDS FOR COUNTERDRUG AND COUNTERTERRORISM ACTIVITIES FOR COLOMBIA.

(a) AUTHORITY.—Funds designated for intelligence or intelligence-related purposes for assistance to the Government of Colombia for counterdrug activities for fiscal year 2004 or 2005, and any unobligated funds available to any element of the intelligence community for such activities for a prior fiscal year, shall be available—

(1) to support a unified campaign against narcotics trafficking and against activities by organizations designated as terrorist organizations (such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC)); and

(2) to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

(b) TERMINATION OF AUTHORITY.—The authority provided in subsection (a) shall cease to be effective if the Secretary of Defense has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations.

(c) APPLICATION OF CERTAIN PROVISIONS OF LAW.—Sections 556, 567, and 568 of Public Law 107–115, section 8093 of the Department of Defense Appropriations Act, 2002, and the numerical limitations on the number of United States military personnel and United States individual civilian contractors in section 3204(b)(1) of Public Law 106–246 shall be applicable to funds made available pursuant to the authority contained in subsection (a).

(d) LIMITATION ON PARTICIPATION OF UNITED STATES PERSONNEL.—No United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available under this section, except for the purpose of acting in self defense or rescuing any United States citizen to include United States Armed Forces personnel, United States civilian employees, and civilian contractors employed by the United States.

SEC. 504. SCENE VISUALIZATION TECHNOLOGIES.

Of the amount authorized to be appropriated by this Act, $2,500,000 shall be available for the National Imagery and Mapping Agency (NIMA) for scene visualization technologies.

HIGHER EDUCATION RELIEF OPPORTUNITIES FOR STUDENTS ACT OF 2003

Mr. SUNUNU. Mr. President, I ask unanimous consent that the HELP Committee be discharged from further consideration of H.R. 1412, and that the Senate proceed to its immediate consideration.

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

The legislative clerk read as follows:

A bill (H.R. 1412) to provide the Secretary of Education with specific waiver authority to respond to a war or other military operation or national emergency.

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

Mr. SUNUNU. Mr. President, I ask unanimous consent that the bill be read a third time and passed, that the motion to reconsider be laid upon the table, and that any statements regarding this matter be printed in the RECORD.

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

The bill (H.R. 1412) was read the third time and passed.

JAMES L. WATSON UNITED STATES COURT OF INTERNATIONAL TRADE BUILDING

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H.R. 1018, and that the Senate proceed to its immediate consideration.

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

The legislative clerk read as follows:

A bill (H.R. 1018) to designate the building located at 1 Federal Plaza in New York, New York, as the ''James L. Watson United States Court of International Trade Building.''

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

Mr. SUNUNU. Mr. President, I ask unanimous consent that the bill be read a third time and passed, that the motion to reconsider be laid upon the table, and that any statements regarding this matter be printed in the RECORD.

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

The bill (H.R. 1018) was read the third time and passed.

PROVIDING FOR ADDITIONAL SPACE AND RESOURCES FOR NATIONAL COLLECTIONS HELD BY THE SMITHSONIAN INSTITUTION

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate

proceed to the immediate consideration of H.R. 2195.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2195) to provide for additional space and resources for national collections held by the Smithsonian Institution, and for other purposes.

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

Mr. LEAHY. Mr. President, Larry Small, Secretary of the Smithsonian, has provided a letter to the majority and minority leaders that clarifies the intentions of the Smithsonian with regard to Section 5 of H.R. 2195.

I ask unanimous consent that the letter from Secretary Small concerning this clarification of how the Smithsonian will proceed with voluntary separation incentive payments be made part of the RECORD.

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

SMITHSONIAN INSTITUTION,
Washington, DC, July 31, 2003.

Hon. BILL FRIST,
Majority Leader, U.S. Senate,
Washington, DC.

Hon. TOM DASCHLE,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR LEADER FRIST AND LEADER DASCHLE: In discussions to facilitate the Senate's consideration of H.R. 2195, the ''Smithsonian Facilities Authorization Act,'' the Smithsonian Institution would like to clarify its intentions with regard to Section 5, providing authority for voluntary separation inventive payments, or buyouts. This letter gives a detailed explanation of how we will proceed with the buyout.

If this legislation is enacted, the Secretary of the Smithsonian Institution will have the authority to offer separation incentives to employees who voluntarily retire or resign. Incentives will be offered on the basis of organizational unit, occupational series or level, geographic location, specific window periods, skills, knowledge, other job related factors, or a combination of such factors. An incentive payment will be the lesser of the amount of severance pay the employee would be entitled to if the employee were entitled to a severance payment, or an amount determined by the Secretary not to exceed $25,000. We will offer buyouts for no more than three years from the date of enactment of H.R. 2195.

Any employee is eligible for the buyout if he or she is serving under an appointment without time limitation and has been employed for at lest three years continuously in the civil service at the Smithsonian. Employees not eligible for the buyout are reemployed annuitants, employees eligible for disability retirement, employees about to be separated for misconduct or unacceptable performance, employees who have previously received a voluntary separation incentive payment, employees who are on transfer from an agency of the Executive Branch, and employees who had received a recruitment or relocation bonus, a retention allowance, or a student loan repayment.

The Secretary will devise a plan outlining the intended use of voluntary separation incentive payments. The plan will include the specific positions and functions to be reallocated, a description of the categories of employees to be offered incentives, the time period during which incentives may be paid, the number and amounts of the incentive payments, and a description of how the Smithsonian will operate after positions and functions are reallocated. The Secretary will consult with the Office of Management and Budget regarding the Institution's plan prior to implementation and will provide an organization chart for the Smithsonian Institution reflecting its operations after incentive payments have been completed.

In addition, buyouts will only be made in the case of an employee who voluntarily separates and will be paid in a lump sum after the employee's separation. Buyouts will not be the basis for payments or included in the computation on any other type of governments benefit, will not be taken into account in determining the amount of severance pay, and will be taken from appropriations or funds available for the basic pay of the employee.

We will amend our administrative procedures and make clear the buyout offer that any employee who accepts the voluntary separation incentive payment and then accepts employment for compensation with the Federal Government within five years will be required to repay to the Smithsonian Institution, prior to the individual's first day of employment, the entire amount of the voluntary separation incentive payment. This repayment requirement may be waived in certain circumstances, as detailed in the Homeland Security Act (Public Law 107–296).

The purpose of the buyout is not to reduce employment at the Smithsonian but to reconfigure the workforce to meet current and future needs.

I hope this information is useful. Please do not hesitate to contact me if you have any further questions. The passage of the ''Smithsonian Facilities Authorization Act'' prior to the August recess is extremely important to the Institution.

All the best,

LAWRENCE M. SMALL,
Secretary.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the bill be read a third time and passed, that the motion to reconsider be laid upon the table, and that any statements regarding this matter be printed in the RECORD.

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

The bill (H.R. 2195) was read the third time and passed.

GARNER E. SHRIVER POST OFFICE BUILDING

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Government Affairs Committee be discharged from further consideration of H.R. 1761 and the Senate proceed to its immediate consideration.

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

The legislative clerk read as follows:

A bill (S. 1761) to designate the facility of the United States Postal Service located at 9350 East Corporate Hill Drive in Wichita, Kansas, as the ''Garner E. Shriver Post Office Building''.

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

Mr. SUNUNU. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements regarding the bill be printed in the RECORD.

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

The bill (H.R. 1761) was read the third time and passed.

NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK

NATIONAL VETERANS AWARENESS WEEK

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 242, S. Res. 30, and Calendar No. 243, S. Res. 204, en bloc.

The PRESIDING OFFICER. The clerk will report the resolutions by title.

The legislative clerk read as follows:

A resolution (S. Res. 30) expressing the sense of the Senate that the President should designate the week beginning September 14, 2003, as ''National Historically Black Colleges and Universities Week''.

A resolution (S. Res. 204) designating the week of November 9 through November 15, 2003, as ''National Veterans Awareness Week'' to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

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

Mr. SUNUNU. Mr. President, I ask unanimous consent that the resolutions be agreed to en bloc, the preambles be agreed to en bloc; further, that the motions to reconsider be laid upon the table en bloc, with no intervening action or debate.

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

The resolution (S. Res. 30) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 30

Whereas there are 105 historically black colleges and universities in the United States;

Whereas historically black colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas historically black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas historically black colleges and universities have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of historically black colleges and universities are deserving of national recognition: Now, therefore, be it

Resolved,

SECTION 1. DESIGNATION OF NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the President should designate the week beginning September 14, 2003, as ''National Historically Black Colleges and Universities Week''.

(b) PROCLAMATION.—The Senate requests the President to issue a proclamation—