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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. MILLER of Florida).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 30, 2004.

I hereby appoint the Honorable JEFF MILLER to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend William G. Alvey, Pastor, Park United Methodist Church, Madison, Ohio, offered the following prayer:

Our Most Gracious Heavenly Father, we ask Your blessings to rest upon these very special people who represent all the people of this great country. Help them not to just represent all the people, but also be responsible to the needs of all the people.

As they diligently listen to and discuss the proposals presented to them, help them to discern Your will, not their will, in the decisions they are called upon to make.

We are grateful for the freedoms that this country affords to us, that we may participate in the governing of ourselves and especially our future.

With this great responsibility we ask that Your Spirit might give the Members of Congress guidance and leadership in all their deliberations both today and every day.

These blessings we ask in Your name which is above every name. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Wisconsin (Mr. KIND) come forward and lead the House in the Pledge of Allegiance.

Mr. KIND led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment bills and a joint resolution of the House of the following titles:

H.R. 982. An act to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa.

H.R. 4115. An act to amend the act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation.

H.R. 4259. An act to amend title 31, United States Code, to improve the financial accountability requirements applicable to the Department of Homeland Security, to establish requirements for the Future Years Homeland Security Program of the Department, and for other purposes.

H.J. Res. 107. Joint resolution making continuing appropriations for the fiscal year 2005, and for other purposes.

The message also announced that the Senate has passed bills and a concurrent resolution of the following titles in which the concurrence of the House is requested:

S. 1601. An act to amend the Indian Child Protection and Family Violence Prevention Act to provide for the reporting and reduction of child abuse and family violence incidences on Indian reservations, and for other purposes.

S. 2639. An act to reauthorize the Congressional Award Act.

S. Con. Res. 110. Concurrent resolution expressing the sense of Congress in support of the ongoing work of the Organization for Security and Cooperation in Europe (OSCE) in combating anti-Semitism, racism, xenophobia, discrimination, intolerance, and related violence.

WELCOMING THE REVEREND WILLIAM ALVEY

(Mr. LATOURETTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LATOURETTE. Mr. Speaker, the guest chaplain today is the Reverend William Alvey from the Park United Methodist Church in Madison, Ohio.

His appearance here today started out last Memorial Day. He was giving the invocation at the J. Wilson VFW Post on Memorial Day and indicated that he was thinking about retiring in the near future, and one of the things that he would like to do was give the opening prayer at the House of Representatives.

I am honored to have known Reverend Alvey for nearly a decade, I want to welcome him and 47 people who rode up on a bus from Madison, Ohio, to be with Reverend Alvey today and who have joined us this morning. Reverend Alvey is in his 41st year with the United Methodist Church, and has been at the Madison Park United Methodist Church since 1995. Reverend Alvey is a fixture in the Madison community, and I want to thank him for his distinguished service to the church and to our community, and it is my pleasure to welcome him here this morning.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will enterertain 10 one-minute speeches per side.

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HOPE IN IRAQ

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, on September 29, an article in the Centralia Sentinel reads, ''Former Centralia policeman finds hope in Iraq.''

Joe Phoenix ended his 11-year career in February to join 1,000 other law enforcement officers from the U.S. hired by the Federal Government to train Iraqi police officers. In a brief visit home he states about the Iraqi people, ''They are good people with good hearts and they love working with Americans,'' he said. ''They consider it such an honor that we come over here and that we leave home and work with them. I have had nothing but cooperation from the people I am working with.''

About the current challenges he states, ''We are trying to get people trained and fortified so they can stand their ground. We need to get the Iraqi police in a better position to fight these guys.''

And about the future, ''Right now it is dangerous and it is probably going to get worse between now and January. They are going to try and stop the elections and show people we are not in control, but that is not going to happen. After the elections, I think things will slow down and get better.''

Mr. Speaker, I thank Officer Phoenix for his service. God bless him, and God bless the United States of America.

AMERICA NEEDS COMMANDER IN CHIEF, NOT CHEERLEADER IN CHIEF

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, a former CIA official recently said ''The best we can hope for in Iraq is a failed state hobbling along.'' The State Department's official travel warnings says, ''Iraq remains very dangerous.'' The national intelligence estimate from July said the best case scenario for Iraq was merely ''tenuous stability.''

A Kroll Security International study shows the number of attacks has increased from 40 per day to around 70 per day. Republican Senator CHUCK HAGEL said, ''I do not think we are winning. We are in deep trouble in Iraq.'' Secretary of State Colin Powell said, ''It is getting worse.''

I know that the President is proud of the fact that he does not read newspapers, but can somebody please brief the President of the United States?

Today in the Washington Post, with all of the horrific news, there is a report that the administration is embarking on a new propaganda campaign ''designed to be uplifting, with good news messages about Iraq.''

Mr. Speaker, the American people need the truth about Iraq. The American people can handle the truth; the question is, can the President?

MARRIAGE PROTECTION AMENDMENT

(Mr. RYUN of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYUN of Kansas. Mr. Speaker, much has been said about the need to protect the definition of marriage for the future. While I wholeheartedly agree, I would like to offer a perspective from the past on the importance of marriage in America.

Alexis de Tocqueville perhaps provided the most comprehensive analysis of American society in the 1830s. He observed that there is certainly no country in the world where the tie of marriage is more respected than in America.

In 1885 the United States Supreme Court added its opinion stating, ''Certainly no legislation can be supposed more wholesome and necessary in the founding of a free, self-governing commonwealth than that which establishes it on the idea of the family, consisting of the union for life of one man and one woman in the holy estate of matrimony; the family is the sure foundation of all that is stable and noble in our civilization.''

Historically, marriage between one man and one woman has been the cornerstone of stable families. The marriage protection amendment will ensure that the definition of marriage in America does not change based upon the whim of an activist judge. It will protect the rights of each State and the will of the people. I urge Members to support the marriage protection amendment. It is necessary for the preservation of the historic institution of the family.

RUBEN MARTINEZ AWARDED MACARTHUR FELLOWSHIP

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise this morning to congratulate a very good friend of mine, Ruben Martinez, owner of Libreria Martinez Books and Art Gallery in Santa Ana, California, for being named a 2004 MacArthur Fellow.

How appropriate that during Hispanic Heritage Month, I have the opportunity to recognize such a successful Hispanic from my own district on this great honor. For more than 30 years, Ruben has been getting the youth of Orange County engaged in books and politics. What began as a haircutting venture, accompanied by political discussions with his clients, turned into a lifelong passion for selling books in both Spanish and English.

Today Libreria Martinez is one of the largest commercial sellers of Spanish-language books in the Nation. Authors and community members, both young and old alike, have made this shop a home.

The MacArthur Fellowship has been dubbed the ''genius award'' by some, and I can think of no one more deserving than Ruben. I thank him for his tireless work and his dedication in promoting readings and education in my hometown.

MARRIAGE PROTECTION AMENDMENT

(Mr. BARRETT of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT of South Carolina. Mr. Speaker, this afternoon we will debate and vote on the marriage protection amendment. Let us be clear, the debate today is not about denying anyone's rights. This is about ensuring the will of the people and protecting it. Forty-four States have already enacted laws defining marriage as the union between a man and a woman. South Carolina is one of these 44 States. The people of my State have already decided how they would like for marriage to be defined. So as a Representative I am wondering why the will of my constituents and that of over 70 percent of Americans nationwide should be tossed aside because of a few activist judges because they disagree.

Unfortunately, a handful of judges have already begun to amend our Constitution. They have circumvented the democratic process with their rulings. Therefore, the decision we are left with now is not whether the Constitution will be amended but who will amend it: activist judges or the American people.

Mr. Speaker, I hope my colleagues will join me today in supporting the marriage protection amendment. It is time we get the debate back where it belongs, with the American people.

GLOBAL WARMING

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUMENAUER. Mr. Speaker, as the damage, pain, and suffering of the recent hurricanes slowly recede in the memories of most Americans, we would do well to remember that this is but a small taste of what is likely to occur given the increase in global warming.

A recent study by the Commerce Department's Geophysical Fluid Dynamic Lab in Princeton University, the most extensive to date, indicated that global warming is going to make it a lot worse. The typical hurricane is going to be one-half step greater on the 5-step scale, rainfall up to 60 miles away will be up to 20 percent more intense, and even if the number of storms remains the same, which is not at all

clear, there will be much increased potential for damage, and the rising sea levels will create more flooding from the storm surges.

It is time for the United States to work with other developed countries to recognize the threat of global climate warming, to cooperate on solutions to reduce greenhouse gases. Future generations will be grateful.

MARRIAGE PROTECTION AMENDMENT

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, today we will debate and vote on an issue of critical importance to our society: marriage.

The issue is whether we will stand idly by as a few unelected judges redefine the family for us, or if we will take a stand and say enough is enough. The best home for kids is with their mom and dad. Children cannot do better than that, and we should not try to redefine marriage.

Unfortunately, some claim that this is an issue for the States. Indeed, it is if that is what was happening. It is not. Activist courts are circumventing the States in order to make this happen. We would never debate it. The States would never debate it. The American people would never debate. That is how the activist groups and the activist judges want it. States rights are meaningless if judges ultimately make the decisions.

Mr. Speaker, this House should pass the marriage protection amendment and send it to the State legislatures for their ratification so the courts do not become the final maker of family policy. Kids do best with a mom and dad.

CHENEY HAD IT RIGHT FIRST TIME

(Mr. MCDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. MCDERMOTT. Mr. Speaker, the Vice President had it right on Iraq the first time, and now we know that because of the Seattle Post-Intelligencer newspaper columnist Joe Connelly.

The Vice President was Defense Secretary during the first Gulf War. Mr. CHENEY told a Seattle audience in 1992 that it was folly to spill American blood to try to get Saddam or try to govern Iraq. This column ought to be required reading before the Presidential debates.

These are DICK CHENEY's exact words in defending the first President Bush's decision to leave Iraq and Saddam Hussein: ''And the question in my mind is how many additional American casualties is Saddam worth? And the answer is not that damned many. So I think we got it right, both when we decided to expel him from Kuwait, but also when the President made the decision that we had achieved our objectives and we were not going to get bogged down in the problems of trying to take over and govern Iraq.''

I am entering Mr. Connelly's column in the RECORD. It is seattlepi.com. Read it.

Mr. Speaker, they may call it swagger in Texas, but we call it truth in Washington State.

[From the Seattle Post-Intelligencer, Sept. 29, 2004]

IN THE NORTHWEST: BUSH-CHENEY FLIP-FLOPS COST AMERICA IN BLOOD

(By Joel Connelly)

As George W. Bush has lately shown, the tactic of successfully defining your opponent is to political conflict what occupying the high ground is to waging war.

The Bush-Cheney campaign has gleefully labeled John Kerry a flip-flopper. But what of Bush-Cheney flip-flops? They're getting a lot less ink, but America is paying a price in blood.

Little noticed, and worthy of lengthy consideration, is a speech delivered by then-Defense Secretary Dick Cheney in 1992 to the Discovery Institute in Seattle.

The words of our future vice president—defending the decision to end Gulf War I without occupying Iraq—eerily foretell today's morass. Here is what Cheney said in '92:

''I would guess if we had gone in there, I would still have forces in Baghdad today. We'd be running the country. We would not have been able to get everybody out and bring everybody home.

''And the final point that I think needs to be made is this question of casaualties. I don't think you could have done all of that without significant additional U.S. casualties. And while everybody was tremendously impressed with the low cost of the (1991) conflict, for the 146 Americans who were killed in action and for their families, it wasn't a cheap war.

''And the question in my mind is how many additional American casualties is Saddam (Hussein) worth? And the answer is not that damned many. So, I think we got it right, both when we decided to expel him from Kuwait, but also when the president made the decision that we'd achieved our objectives and we were not going to get bogged down in the problems of trying to take over and govern Iraq.''

How—given what he said then—does Cheney get off challenging the judgment and strength of those who argue that we are bogged down and shedding blood today?

Is Sadddam worth the lives of 1,046 (at last count) dead Americans, and 7,000 injured Americans?

Dick Cheney posed the hard-nosed questions that should be asked by a president in time of war. George Bush is out on the campaign trail boasting he's hard-nosed because he didn't ask how a ''Mission Accomplished!'' could unravel.

Kerry is taking a pounding from the relentless Republican machine. A GOP TV ad shows Kerry windsurfing, with Strauss' ''Blue Danube'' waltz playing in the background, as the voice-over claims the nominee has shifted positions ''whichever way the wind blows.''

In case the ''mainstream'' media are interested, or Fox News wants to balance its reporting to furnish a few moments of fairness, here are a few Bush flip-flops that might be put before the voters:

Nation-Building: As a candidate, Dubya traveled the land in 2000 denouncing the Clinton administration for using U.S. troops in what he called ''nation-building.''

''I'm worried about an opponent who uses nation-building and the military in the same sentence,'' he told a rally. ''My view of the military is for our military to be properly prepared to fight and win wars—therefore, (to) prevent war from happening in the first place.''

What are we doing in Iraq if not ''nation-building?'' Enmeshed in Iraq, are we properly prepared to fight such crazies as the nuclear weapon-equipped ''Great Leader'' of North Korea, Kim Jong Il?

Our Real Enemy: Two days after 9/11, President Bush declared: ''The most important thing is for us to find Osama bin Laden. It is our No. 1 priority, and we will not rest until we find him.''

Six months later, laying political groundwork for the Iraq war, the President said: ''I don't know where he is. I have no idea and I really don't care. It's not that important. It's not our priority.''

The 9/11 Commission: The White House initially opposed creation of an independent commission to investigate causes of the 9/11 atrocities. A July 2002 statement read: ''The administration would oppose an amendment that would create a new commission to conduct a similar review (to Congress' investigation).''

The administration reversed course five months later. The bipartisan commission, including former Sen. Slade Gorton, R–WA, distinguished itself at hearings and in its findings and recommendations.

Homeland Security: In the fall of 2001 Sens. JOHN MCCAIN, R–AZ, and JOE LIEBERMAN, D–CT, proposed creating a Cabinet-level Department of Homeland Security.

White House press secretary Ari Fleischer outlined the administration's opposition in October 2001, saying Congress did not need to make the director's job ''a statutory post'' and that ''every agency of the government has security concerns.''

A year later, the Bush administration was flaying Sen. MAX CLELAND, D–GA—a Vietnam triple amputee—for allegedly being an obstacle to creation of the department. Anti-Cleland ads showing Osama bin Laden and Saddam Hussein flashed across the TV screens of Georgia.

Such are this administration's major national security flip-flops. But other flips bear on our safety.

During the 2000 campaign, candidate Bush pledged to limit carbon dioxide emissions into the atmosphere. It didn't happen. The President promised to support—or at least sign—renewal of Congress' 1994 ban on military-style assault weapons. The Bush administration didn't lift a finger to extend the ban, which recently expired.

Out here on America's ''Left Coast,'' candidate George Bush proclaimed himself a steadfast free trader. Even today, Republican State Chairman Chris Vance hammers Kerry as a flip-flopper on trade.

How, then, to explain the President's 2002 decision to slap tariffs of 8 to 30 percent on steel imports to the United States? (The tariffs were lifted after 21 months.)

Answer: The steel-producing states of Pennsylvania, Ohio and West Virginia have 46 fought-over electoral votes in this year's election.

□ 1015

HISTORIC MEETING BETWEEN INDIA AND PAKISTAN LEADERS OFFERS HOPE

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, a historic meeting took place this past Friday in New York City between Indian Prime Minister Singh and Pakistani President Musharraf. This was an important step toward bringing about a peaceful ending to disputes over Kashmir and fears of nuclear conflict in the region.

Both India and Pakistan have been strong allies of the United States in the war on terror and Secretary of State Colin Powell should be thanked for playing a significant role in bringing these leaders together. This is the latest example of positive progress in South Asia and the Middle East, thanks to the leadership and support of President George W. Bush and his administration.

This month the world's largest Muslim nation, Indonesia, had its first direct democratic election of a president, and earlier this year Libya voluntarily gave up its program to develop weapons of mass destruction. Additionally, millions of Muslims have been liberated by coalition forces from brutal regimes in Afghanistan and Iraq and now will build a civil society which protects American families.

In conclusion, may God bless our troops and we will never forget September 11.

TONIGHT'S PRESIDENTIAL DEBATE

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I briefly rise, as well, to join my colleague in acknowledging the meeting between the Prime Minister of India and, of course, the President of Pakistan asking for their fellow countrymen and -women to understand the importance of aspiring for peace for their people.

But I rise today, Mr. Speaker, to really ask my colleagues and the American people what tonight's debate should really be about. This debate has been almost poised as a contest between two warriors. In fact, I believe this is a debate for the American people. The question should be asked, why were the American people told that we needed to go to war for the weapons of mass destruction that did not exist? Why have some thousand-plus of our young men and women and family members died in Iraq when there was no basis for this war? Why did the President not seek a constitutional vote for this war? Why are there thousands of wounded lying in our hospitals and we do not even know if the veterans hospitals will remain open?

The question is, who can lead us forward, and the answer is JOHN KERRY. That is what this debate is about, what will the American people want for their future and I can assure you it is not and should not be a litany of untruths from their national government; they simply want the truth.

DROUGHT RELIEF

(Mrs. MUSGRAVE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MUSGRAVE. Mr. Speaker, as we approach the end of this legislative session and I near the end of my freshman term, I am amazed by the power this body has when it wants to act quickly. The speed at which recent emergency funding for hurricane victims passed just goes to show what can be accomplished in Congress and how quickly.

Serving my rural district in Colorado, I come to the floor this morning to urge action on funding for victims of another major natural disaster, our 6-year drought, which has devastated farmers and ranchers throughout the West. This is a matter of importance that is not being reported on the 24-hour cable news networks or capturing front-page headlines across the Nation because it is not a sudden, horrific force like hurricanes; but it is very critical nonetheless.

When I am at home on the weekends, I see the devastation firsthand. I see the worry and the anxiety. I see the detriment this natural disaster is imposing on the local small town economies. Recently, the other body included $3 billion for drought relief in the Department of Homeland Security bill.

To my colleagues here in the House, I urge support of this funding for drought relief. Floridians boarded up before their natural disasters. Let us make sure rural Colorado does not after theirs.

IRAQ

(Ms. DELAURO asked and was given permission to address the House for 1 minute.)

Ms. DELAURO. Mr. Speaker, today's Washington Post tells us that the administration recently curtailed the distribution of reports by contractor Kroll Security International that show increasing violence in Iraq. The article goes on to say that the Pentagon is sponsoring a group of Iraqi Americans to speak at military bases throughout the United States to provide ''a first-hand account of events in Iraq.'' That is to say, the administration is sending Iraqi exiles, mostly people who may not have been to the country in years, to tell our troops just back from Iraq the ''good news'' about how things are going there.

I imagine some of these exiles are the same people who told Deputy Defense Secretary Wolfowitz that we would be greeted as liberators upon arriving in Iraq. These are two more examples of an administration in denial of what is actually going on in Iraq, an administration unhinged from reality. If these emissaries of the administration were going to tell our troops the truth about Iraq, they would say that the international coalition is getting smaller, that our burden is getting larger, and our casualties are rising at an alarming rate.

That is the reality in Iraq, the reality that our dedicated troops deserve to be told by those sending them into harm's way. The American public needs to know what is happening in Iraq. This administration is failing to do that.

MESSAGE FROM THE SENATE

The Speaker pro tempore (Mr. MILLER of Florida) laid before the House the following privileged message from the Senate:

In the Senate of the United States, September 20, 2004.

Ordered, That the Secretary be directed to request the return of (H.R. 4567) entitled ''An Act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes.'', in compliance with a request of the Senate for the return thereof.

Attest:

EMILY J. REYNOLDS,
Secretary.

The SPEAKER pro tempore. Without objection, the request of the Senate is agreed to, and H.R. 4567 will be returned to the Senate.

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5183, SURFACE TRANSPORTATION EXTENSION ACT OF 2004, PART V

Mr. REYNOLDS, from the Committee on Rules, submitted a privileged report (Rept. No. 108–710) on the resolution (H. Res. 811) providing for consideration of the bill (H.R. 5183) to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century, which was referred to the House Calendar and ordered to be printed.

WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 807 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 807

Resolved, That the requirement of clause 6(a) of rule XIII for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported on the legislative day of September 30, 2004, providing for consideration of a bill to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway

Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

The SPEAKER pro tempore. The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. REYNOLDS asked and was given permission to revise and extend his remarks.)

Mr. REYNOLDS. Mr. Speaker, House Resolution 807 is a same-day rule that provides for consideration of the rule to accompany H.R. 5183, the Surface Transportation Extension Act of 2004. The rule waives clause 6(a) of rule XIII requiring a two-thirds vote to consider a rule on the same day it is reported from the Committee on Rules.

Mr. Speaker, the current extension of the highway bill ends at midnight tonight. The Congress must therefore act immediately to ensure that there is no termination in projects or jobs while we continue to formulate the package that will reauthorize the Transportation Equity Act for another 6 years. The legislation must be moved forward today in order to continue funding for highway, highway safety, motor carrier safety, transit and other programs at the levels approved in the fiscal year 2004 budget resolution.

Mr. Speaker, I urge my colleagues to support this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman from New York for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, the transportation bill is one of the most strongly supported, popular, and bipartisan measures to be considered in the House. The programs authorized in this bill touch every American and affect their lives every single day. There are probably only a handful of Members who do not want to see the transportation bill reauthorized for another 6 years.

But it appears that the Republican leadership and the administration are stonewalling this process by their refusal to work in good faith with the other body. Let us look at the facts. Republicans are in charge of the White House, the Senate, and the House of Representatives. But, instead of providing real leadership, the Republican leadership and the President have let the conferees dangle in the wind while we continue to pass short-term extension after short-term extension of these important programs.

By my count, Mr. Speaker, this is the sixth temporary extension to be considered and sent to the President. Do not get me wrong. I strongly support these programs. I understand that the gentleman from Alaska (Mr. YOUNG), the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Illinois (Mr. LIPINSKI) and others are doing their best given the draconian allocation set by the Republican leadership. I support these extensions because we cannot afford to let these programs expire. But it is important to know that the Republican leadership and the Bush administration have not done all they can to ensure that the full reauthorization is completed and signed before the programs expire.

Mr. Speaker, the President is the leader of his party. Yet the President has shown a lack of leadership on this issue. The transportation bill will provide every American with roads and bridges that they need. It will provide economic stimulus across the country with the various projects that are written into it. Most importantly, this bill will create new jobs at a time when the new jobs are desperately needed. But instead of looking out for the American public, the President and the Republican leadership in this body have held onto their ideology to the detriment of this country.

Mr. Speaker, I want to say again that I support this extension. While I am concerned anytime the Republican leadership proposes a martial law rule, I also want to express my support for this particular rule that will allow us to consider this sixth extension and send it to the President before these programs expire. But I am disappointed and discouraged by the way the President and the Republican leadership have mismanaged this process, and I hope we can do better next year.

Mr. Speaker, I yield back the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SURFACE TRANSPORTATION EXTENSION ACT OF 2004, PART V

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 811 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 811

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 5183) to provide an extension of highway, safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure; and (2) one motion to recommit.

The SPEAKER pro tempore. The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. REYNOLDS asked and was given permission to revise and extend his remarks.)

Mr. REYNOLDS. Mr. Speaker, House Resolution 811 is a closed rule that provides for consideration of H.R. 5183, the Surface Transportation Act of 2004. The rule waives all points of order against consideration of the bill and provides 1 hour of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. The rule further provides one motion to recommit.

Mr. Speaker, the Committee on Transportation and Infrastructure currently has under its consideration the multiyear reauthorization of the Transportation Equity Act. The current authorization expires at midnight tonight and the bill before us today provides funding for essential programs for an additional 8 months, through May 31, 2005. This extension is necessary to give the authorizing conferees additional time to agree on a larger reauthorization bill.

□ 1030

This Congress recognizes the many needs of our Nation and is answering the call by diligently working through its process to produce a bill that deals with the Nation's priorities in a whole host of areas.

The final authorization bill will ensure that we have a reliable and stable transportation infrastructure from Federal highways and highway safety to public transportation and motor-carrier safety programs.

In the meantime, the extension before us today authorizes $24.5 billion for the Federal Aid Highway program for highway and bridge construction and safety-related infrastructure improvements. Mr. Speaker, $5.2 billion is authorized for the Federal Transit Administration for grants to State and local transit agencies to reduce congestion and ensure mobility for all Americans in urban and rural areas.

Additionally, the bill authorizes $200 million for highway safety programs, including programs to encourage seatbelt use and prevent drunk driving. The $287 million is authorized for the Federal Motor Carrier Safety Administration for truck and bus-related safety programs.

Mr. Speaker, the underlying bill also releases the final portion of contract authority and obligation authority for

the highway program in fiscal year 2004. This funding was reserved until the end of the fiscal year and is now being used to ensure that States receive at least a 90.5 percent minimum guaranteed rate of return on their Highway Trust Fund contributions.

Without our action today, vital programs and projects under the jurisdiction of the Department of Transportation will be put on hold. States will not be reimbursed with the Federal share of projects. Safety grants will not be provided to States, and transit construction will be halted, all of which puts jobs at risk.

Mr. Speaker, we simply cannot allow States and transportation projects to suffer. I urge my colleagues to support this rule and the underlying extension.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman from New York (Mr. REYNOLDS), my good friend, for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, this rule and the underlying bill are for an 8-month extension of the Transportation Equity Act for the 21st century, TEA 21. It marks the sixth extension of that landmark legislation since it expired last year and reveals, once again, the rank and utter incompetence of the Republican leadership to get a transportation reauthorization bill. This extension, while absolutely necessary to keep the Nation's highway and transportation agencies running is, simply stated, another glaring failure of the Republican leadership in this session of Congress.

Mr. Speaker, let us pause for a moment to remind everyone of the facts. They are in charge of the White House. They are in charge of the Senate, and they are in charge of the House of Representatives. The transportation reauthorization bill is one of the most strongly supported, popular and bipartisan measures to be considered in the House. The programs authorized in this bill touch every American and affect their lives every single day. There are probably only a handful of Members who do not want to see a transportation bill reauthorized for another 6 years. Nevertheless, this President and the Republican leadership, which have presided over a historic loss of more than 2 million American jobs, are stonewalling a transportation bill which will create 47,000 new jobs for every $1 billion of investment.

The refusal of this leadership to work in good faith with the other body is costing our economy precious jobs, while the condition of our roads and bridges continue to deteriorate. Instead of providing real leadership, the majority party and the President have let the conferees twist in the wind while we continue to pass short-term extension after short-term extension of these important programs. The States, which we were elected to represent, are left to guess at when we will have a transportation bill, as they endeavor to undertake critically important public works projects. According to the American Association of State Highway Transportation officials, 33 States say that a short-term extension rather than enactment of a 6-year bill will mean $2.1 billion in project delays and the loss of over 90,000 jobs.

Now, I understand that the gentleman from Alaska (Chairman YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. LIPINSKI) and everybody on the committee are doing the best they can given the Draconian allocations set by the Republican leadership. The members of that committee, the bipartisan cooperation of that committee deserves to be praised by all of us, and it should be an example to the rest of this body. I support these extensions because we cannot afford to let these programs expire. But it is important to know that the leadership of this House and the administration have not done all they can to ensure that the full reauthorization is completed and signed before the programs expire.

Mr. Speaker, as I said before, the President is the leader of his party. Where is the leadership? The transportation bill will provide every American with the roads and bridges that they need. It will provide economic stimulus across the country with various projects that are written into it. And, most importantly, this bill will create new jobs at a time when new jobs are desperately needed. But instead of looking out for the American public, the leadership and the President have held on to their ideology to the detriment of this country.

So, Mr. Speaker, I want to say again that while I support this extension, I am disappointed and discouraged by the way the leadership has so profoundly mismanaged this process, and I hope that we can do better next year.

Mr. Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

It is now almost October 1, and we are getting into the election season. I expect the gentleman from Massachusetts to have some finger-pointing going on. But I was here, as he was, when the debate occurred on transportation, and I would say that the authorizers had some pretty good, wholehearted debate that seemed to almost be on the same page between Republicans and Democrats, the majority and the minority of this House.

I would remind all of us that while we had some harmony passing that legislation in the House and apparently in the other body, they had some harmony on what they passed, we have, as we well know as students of government, to pass an identical piece of legislation in the House, in the Senate and the President to sign it, or if he vetoes it, it would require a two-thirds vote in both of the bodies of Congress.

Now, what we have seen, because the other body has publicly debated some of their positions, is that we have disagreements between the House and the other body and we have some from the White House on just what the spending will be. But while we are in an election year, we need to make sure we also get some of the facts back here. And that is that my understanding of this extender, is that the 2005 authorization is using the 2004 levels, and there is absolutely zero loss of anything, that each State will have their money. As a matter of fact, in the underlying legislation, it is my understanding that we will see that the $2 billion that Members on both sides of the aisle worked hard to achieve for their districts will also be distributed to those States under the current formula.

Now, I cannot speak for Massachusetts, but I know, in New York, number one, that is going to be fair and equitable money. Number two, it is still a jobs bill that is keeping my people working across my State and, quite frankly, I think across the 50 States. So when we look at this, we also need to come to terms with a funding level of transportation authorization in a future 6-year bill that is equitable for all of us. And we know that different regions of the country have different viewpoints, and we know that non-mass-transit States have different views than those who are in high-growth States looking to develop further road infrastructure in their communities. It is not an easy bill to put together to get a 6-year consensus in this body, let alone between the House, the Senate, and the White House.

But the important thing that is to be noted today as we preserve those jobs, those jobs are working, and a ''yes'' vote today keeps these projects moving forward and protects those jobs. A ''no'' vote puts people out of work. I will willing to predict, Mr. Speaker, that we will have strong bipartisan support for the extension over the next 8 months.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume. I thank my colleague, the gentleman from New York, for his comments. I always enjoy listening to his interesting spin on things.

The fact of the matter is, the problem is not with the authorizers. The authorizers have done a great job. As I said, we need to praise, in a bipartisan way, the members of the Committee on Transportation and Infrastructure. But the problem is with the leadership, and the problem is with the White House who is insisting on unbelievably low numbers for the reauthorization of this bill.

As a result of not having a 6-year bill, there are a number of States that have put projects on hold, and that means that these projects are not being built. They are not going forward. The jobs are not being created. We should have done better.

We are all going to support this extension. We have to. We have no

choice. This is the right thing to do. I am just lamenting the fact that we should have had a 6-year bill, and I regret that the White House and the leadership were not able to get together and make this a priority, especially at a time when there is record job loss.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Oregon (Mr. BLUMENAUER), a member of the Committee on Transportation and Infrastructure.

Mr. BLUMENAUER. Mr. Speaker, I listened to the explanation of my friend, the gentleman from New York, and I agree with a number of the things he said. There will be a large, bipartisan majority supporting this extension, but the notion that somehow there are not problems associated with the repeated failure of Congress to pass, despite what my friend from New York says, what should be one of the easiest bills. We can take the bill that passed the Senate and put it on the floor of the House, and I am quite confident that it would pass with an overwhelming majority. It passed the other body with some 72 or 73 votes. The Committee on Transportation and Infrastructure offered up an approach to the Floor of the House that was substantially above that level. We have assembled the broadest coalition in the history of infrastructure legislation. We have interests ranging from the Sierra Club to the Chamber of Commerce, from the Women's Federation Garden Club of America to the cyclists, to the people who put down asphalt, who all agree on the basic structure of this legislation.

There has been a lot of hard work on behalf of the gentleman from Alaska and the gentleman from Minnesota to try and craft a piece of legislation that is acceptable. I see on the floor here my friends, the gentleman from Wisconsin and the gentleman from Illinois, who have been working, chairing the subcommittee, trying to put something forward underneath these artificial restrictions.

But the point is that it is not a failure of agreement between the Members of the two bodies of Congress. We are substantially in agreement, and we are in agreement with the vast majority of the American public. And the failure to allow that agreement to be fully and fairly debated on this floor and enacted means that we are holding in suspense important transportation priorities.

Yes, we are going to allow the spigot to be opened, or rather, we will avoid slamming the spigot closed at midnight tonight. I do not think anybody in their right mind thinks that we would or should do that. But that does not mean that there are not negative problems associated with it. We have projects in the Pacific Northwest that were slated to go forward that are multiyear in nature, and because of the uncertainty, these are on hold; significant problems that speak to economic development, that speak to environmental protection, to reducing congestion. And it is not just in the northwest. It is New York. It is in Massachusetts. It is Florida and Texas.

If we talk to any of the transportation officials, they will tell us that we are not well served having to repeatedly come to the floor with a short-term extension. But I am going to argue in support of this 8-month extension because, frankly, it is better to kick the can down the road past the election. We have shown that we are not really capable of doing that in an election year. With a new Congress, maybe with a new administration, without the pre-election posturing, I think we will, in fact, have a better piece of legislation. Were we to enact a flawed piece of legislation, it would not just be a problem for today or tomorrow; we would be crippling our transportation initiatives for the entire 6-year period of the authorization, and it would establish an artificially low standard for subsequent reauthorizations. We would be severely penalizing transportation for a generation to come.

I hope that, in the course of the next 8 months, but particularly in the course of the next 5 weeks, the American public takes the time to pin down the politicians in the House, in the Senate, running for President, about where they stand on transportation infrastructure. This is the most important transportation piece of legislation for the next 6 years. It is also the most important economic development legislation, and done right, it is the most important environmental legislation.

This should have been the easiest piece of legislation for this Congress to pass. Sadly, we are seeing today that it has proven that we are not up to the challenge. I hope we can take these next 8 months and do better by the American public.

□ 1045

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I respect the gentleman and what his view is, but I come from a State that has some complex transportation, from new to old aging infrastructure, to mass transit, to ports, to motor carriers, to dealing with buses and transit systems.

As I look at this, if we keep this moving forward by passing this extender, we are going to keep those projects moving forward to protect jobs. A ''no'' vote puts people out of work. It stops transit.

I have taken great care to listen to the transportation experts, and they assure me of the following. We came here with such great spirit in the House to pass this legislation, and it was bipartisan work. We certainly lauded both the chairman of the full Committee of Transportation and Infrastructure and the subcommittee chairs who put together this complex bill and in a bipartisan fashion. Yes, there certainly are differences of agreement to different aspects of what I see in the other body just from public statements of negotiation. We have also seen that the White House and Department of Transportation has some of their opinions on this bill as well.

I accept the fact that we are getting into the election season, and we are going to have all sorts of consumption going on back home as to what this means. But what my transportation experts of New York say, as well as talking to experts in this body, they tell me that if we do this extension, it is going to maintain the spending in the 2005 authorization and 2004 funding levels and that basically no one will lose any money at all in any of our States or, for the most part, in our districts unless some of the Members do not have a relationship with their State transportation people on some of the priorities that they might be looking for in their State.

It is important to understand, for those who are listening to this debate, that this maintains the spending of a multiyear plan in the extension of 8 months, and it does in the 2005 authorization as well as looking at the 2004 funding levels that are currently available.

My local folks in New York, the State commissioner and his people, tell me that we will be able to continue in the continuity of a complex transportation system by being able to count on this extension and the funding to continue the multiyear projects.

So I do not quite understand the gentleman's aspect of where it starts and stops maybe as he sees the view, because I have been assured that we have continuity of transportation services in a multiyear fashion by extending this.

Again, I must say to my colleagues, a ''yes'' vote today keeps those projects moving forward and protects jobs and protects the work and plans that are in our respective States, and a ''no'' vote just plain stops that or puts people out of work.

Mr. BLUMENAUER. Mr. Speaker, will the gentleman yield for a question?

Mr. REYNOLDS. I yield to the gentleman from Oregon for a question.

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's notion about having the funds flow.

Mr. REYNOLDS. I said I yield for a question. I do not want to hear the gentleman's debate on my time.

Mr. BLUMENAUER. Mr. Speaker, I am seeking not to debate. I was just trying to establish a context for a question.

Is it not true that, in both the House and the Senate version of the transportation reauthorization, there are a vast number of specific projects, new starts, that are multiyear in nature and that cannot proceed in the absence of their being reauthorized, and that this extension has no bearing on those longer-term, complex, important projects in the gentleman's State and in mine?

Mr. REYNOLDS. I thank the gentleman for his question, and what I understand is as follows. Sure, I have projects; I think most Members of this body have specific projects earmarked in our legislation. It is my understanding that the other body would not consider earmarks that we would like to begin in the 2005 project year. Therefore, the compromise of extension, because we have had disagreements between the two bodies and we also have the White House in consideration of getting a final bill, was that we would take $2 billion of funding of Member-earmarked items of 2004 and roll them into our respective States on the existing formulas. That is what makes the States content to have that money back into their aspect of continuing in the projects.

The gentleman's influence, as a member of the Oregon delegation, might put an opportunity where the gentleman could talk to the DOT commissioner and begin their projects based on some of the monies they will receive.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Let me be clear to everybody here, because the gentleman from New York keeps on talking about this in terms of a ''yes'' or ''no'' vote. We are all going to vote for it because there is no other choice. Nobody is opposing the extension here. What we are simply saying is they have mismanaged this process.

He talks about jobs that could be maintained. Well, we want to not only maintain jobs, we want to create them.

Let me repeat to him, according to the American Association of State Highway Transportation Officials, 33 States say that a short-term extension rather than enactment of a 6-year bill will mean $2.1 billion in project delays and the loss of over 90,000 jobs. If we did our job right in this House, then this would not be the case. There would be more jobs coming.

I would remind the gentleman, again, I am pretty sure that one party, one party, controls the House and controls the Senate and controls the White House. Contrary to what the gentleman says, this is not about finger-pointing to point out that you guys cannot get your act together.

Mr. Speaker, I yield 5 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman for the time.

October 1, 2003: What is important about that date? That is the date that the last highway bill expired. Here we are, almost a year later, legislation that sets the course of all spending on roads, bridges, highways, mass transit in the United States of America has been in suspended animation working under a 7-year-old law for the last 11 months.

I guess if the Republicans controlled things, things would not be like that; that is the kind of thing we hear around here all the time. They control the White House, the Department of Transportation, the House and the Senate. The White House is low-balling the number and underinvesting in America. They only want to spend $259 billion. They want to take our gas tax money and spend it on other things instead of transportation.

The House did a little better, $283 billion, not enough, but they did better. But they do not want to confront the President in an election year. We could roll them easily. It would be embarrassing, though, just before the election for him to be against jobs and investment in America and spending gas taxes on the purposes for which it was collected. The Senate did a lot better yet, $318 billion.

Then, of course, there was the unanimous bipartisan vote of the Committee on Transportation and Infrastructure, on which I serve, where we voted unanimously for $379 billion, $120 billion more than the President is willing to spend, because that is what the President's Department of Transportation said is necessary to take care of the problems in New York and other States. We need another $120 billion over what the President's asking for to deal with those problems.

It is disingenuous to get up here and say, oh, if we follow these lower numbers, nothing is being hurt. We are foregoing new starts. We are foregoing new investments. We are foregoing additional investments that the President's own Department of Transportation says is necessary. Why? Why are we doing that? We collect gas taxes from each and every American every time they fill up their car, a bunch of them, and that money is supposed to be spent on roads, bridges and highways. We have seen the potholes. I have got failing bridges in my district. We could put hundreds of thousands of people to work tomorrow if we had more investment and more spending.

I cannot understand why they will not spend our gas tax money to put people to work and meet needed investment in our infrastructure. So I stand here saying we should be doing more than just this continuing resolution, obviously. We should have sometime in the last 11 months. The Republicans should have been able to get their act together and agree on a highway bill. That has not happened. Well, if we cannot do that, at least let us put a little more money in there, put a few more people back to work, begin to address some of these problems that are out there, begin to take care of some of the new starts that New York has asked for that cannot go forward under this legislation.

My colleagues cannot say, oh, the transportation experts in New York say this is going to take care of all the problems. It is not. It is not even beginning to address the backlog of problems of failing roads and bridges.

Another interesting statistic from the President's own Department of Transportation is that, for every $1 billion we spend on roads, bridges, highways, mass transit, we create 47,500 jobs; not just construction jobs, but those are good jobs and good wage jobs. And guess what? They cannot be outsourced to another country. That is a really good thing about those jobs, but what it also does is it spills over into communities and small businesses. The suppliers, the contractors, the equipment operators, they are all local. They are locally based. It helps our local communities who need more jobs and investment. It helps small businesses, 47,500 jobs.

So, that means by walking away from the higher numbers proposed by the Senate, that is $318 billion, that we are foregoing $34 billion of investment that is needed to repair our failing bridges, roads, highways and our mass transit inadequacies, new starts in New York and other States. I cannot do the math quite here, but 34 times 47 sounds like a heck of a lot of jobs to me, somewhere around 1.5 million jobs. This country could use another 1.5 million jobs. In fact, if the President would sign a bill at that higher number, then he could say he delivered on his promise of creating 2 million jobs during his presidency. Right now, he is kind of short on that.

This is at best an absolutely minimal stopgap that is not meeting the real needs of Americans, that is not putting people back to work, that is not spending their gas tax money in the manner in which it was intended when it was collected and extracted from them, when they bought gas at the pump.

I would say we have apparently no alternative but to support this inadequate level of funding, but the American people should be aware it is inadequate. It does mean no new starts. It does mean that we are not going to address a whole bunch of problems all around the country, and we can do better.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

It is a well-known fact in the House that the Committee on Transportation and Infrastructure is probably the largest of membership in our great body. It amazes me when I look at the members of the committee, that might share from the other side of the aisle, kind of going back and forth between an extension and the 6-year bill, kind of mixing it up.

I just want to make sure we have the record straight, although I have said it so many times in this debate already. The extension does not prejudice the 6-year bill. It actually keeps a continuity of funding levels at the authorization of our budget resolution.

The gentleman is actually continuing, as previous speakers have, to go back and forth between a simple extension that guarantees all States their money and some planning purposes over the next 8 months versus trying to get to a 6-year bill.

I am used to a situation where legislation does not come to the floor as

fast as some Members would want, that there is finger-pointing. I also acknowledge that we have disagreements between the other body, the White House and this on getting a conclusion of a 6-year bill.

But the Chairman of the Committee on Transportation and Infrastructure has made sure, with his subcommittee chairmen, that we have an 8-month extension that guarantees each State their money so they can continue in their planning purposes. As I have said before, it clearly says a ''yes'' vote today keeps those projects moving forward and protects jobs. A ''no'' vote puts people out of work and brings that construction to an end.

I also want to make sure that some of these alarmist accusations, that there is clear, on-the-record information so that they do not get caught up without a response. As the previous gentleman talked about the fact of money going all over the place, this bill includes an extension of the budgetary firewalls and spending guarantees for the highway category and transit category. These firewalls and guarantees protect the integrity of the Highway Trust Fund to ensure the highway user-related fees are used exclusively for highway transit and highway safety programs.

I want to just let America know that we extend those protections in this extension of 8 months, just as it was in underlying legislation in the past.

□ 1100

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. DAVIS).

Mr. DAVIS of Tennessee. Mr. Speaker, as I look at this particular road bill, the reauthorization, I think of comments made back home, where it is called road kill. In essence, what is happening with this legislation and the reauthorization, quite frankly our folks back home will call it road kill; and let me explain why.

We have individuals this morning that got up in my district and districts throughout this country and they have traveled to work at the factory or at their workplace, and in many cases in my district, on unsafe roads. So this legislation will provide, if enacted, as it should have been, will provide a safe way for working moms and dads to go to work and return to their families later that afternoon, and in many cases working at low-wage jobs.

We have also heard that maybe we can pass this legislation in a lame duck session. Well, that obviously is not going to happen. But I submit to you that is what we have been doing the past year and a half: we have been having a lame duck session. And quite frankly with the lame duck session we have been having concerning transportation needs, we have provided an avenue for many of our folks back home to be sitting ducks, sitting ducks that unless we pass this legislation and fully fund it, as many of us on this side of the Chamber have asked for, it may bring about a situation where the American public and the jobs that we have will bring about an economy that will create a dead duck scenario.

It is my hope that we realize, as we engage in the next 8 months, and I am sure that is what is going to happen, that for the American public and the safety of the American public and the American workers, that we pass an adequately funded reauthorization bill that will help build roads to many of our rural areas; that will help the inner cities with mass transit; and will bring about safe traveling as well as providing an economic boost.

Many years ago, Mr. Speaker, when our interstate systems were built, it helped bring about what we called ''just-in-time manufacturing.'' Small rural areas could in fact become the suppliers for the assembly lines of American manufacturers. As a result of that, we were able to move from small rural areas the products being built there, or that portion of it, to the larger manufacturing companies and create jobs in rural areas. We, in fact, by languishing and not fulfilling our responsibilities are bringing about a situation and circumstance for many of our workers and many of our families and our economy that will not be able to compete should, say, China decide to do as we did in the 1950s and the 1960s.

Mr. REYNOLDS. Mr. Speaker, will the gentleman yield?

Mr. DAVIS of Tennessee. I yield to the gentleman from New York.

Mr. REYNOLDS. Mr. Speaker, I was listening carefully to the comments of the gentleman, but I was at the point where I wondered if the gentleman intends to vote for the extension or not to vote for the extension, based on your remarks.

Mr. DAVIS of Tennessee. Mr. Speaker, reclaiming my time, I would say to the gentleman from New York that my intention is to vote for a reauthorization bill adequately funded. Unfortunately, we do not have that option.

Mr. Speaker, my hope is that we do what is right and that we put first the safety of the American public and pass the reauthorization bill at the level it should be.

Mr. MCGOVERN. Mr. Speaker, I yield myself the balance of my time, and let me just conclude for our side here by saying that this debate is not about whether or not we are going to support this extension. We are all going to support it. That is not the issue.

What we are expressing here is a frustration that we do not have a 6-year bill. And contrary to what the gentleman from New York says, most transportation planners that I have talked to, and I am sure he has talked to, if he has listened to them, would tell him that a 6-year bill is better than an 8-month extension for this reason: that many transportation programs require long-term planning. It is not a quick one-time investment. With an 8-month extension there is not the certainty of what happens after 8 months.

My point earlier was simply that this is another missed opportunity by this leadership. The Republicans control the House, they control the Senate, and they control the White House. Surely, surely they could have worked out a deal. Surely they could have helped accomplish a 6-year extension. That is what the frustration is on this side.

Our Governors and our mayors and our town managers and our city planners are all looking for a long-term guarantee of funding, and they are not going to get that. They are going to get an 8-month extension. And, yes, that is better than nothing. We need to keep this funding going. But the fact is they cannot plan long term; and as a result of that, we are not going to create as many jobs. The future for some of the economic development that we all hoped for that will come from some of these projects will have to be put on hold, and I think that is a shame.

So I want to commend the Committee on Transportation and Infrastructure, the chairman, the gentleman from Alaska (Mr. YOUNG), and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), and all the Members who have worked hard in a bipartisan way. I only wish that their spirit of cooperation would have translated to the leadership of this House and the other body and the White House. We should be doing so much better than this. We should be passing a 6-year extension right now.

So I urge my colleagues to vote for the rule, and I urge them to vote for the extension; and, hopefully, we will, sooner rather than later, get a 6-year bill.

Mr. Speaker, I yield back the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, my colleague said it well, we should vote for this rule and then the underlying legislation. As I opened my remarks, I commented that I understand it is the election season. So many of us have to get up and try to say something for back home on whatever that may be.

I have talked to planners in my years of service, and some planners I know would like to have an exact fund for the entire length of their career in planning. But the reality is that this bill is going to provide an extension and continuity in both planning and money to our respective States. My State, as I outlined earlier, has a complex transportation network and understands that this extension keeps the funding levels the same as it has been. As a matter of fact, the opportunity of all States will have the same funding levels. So we have continuity of our programmatic services and dollars to the States and for them to also distribute as they see fit the monies that will come in this 8-month extension.

It is not easy to formulate an agreement of an extension, and I laud Chairman YOUNG of the Committee on Transportation and Infrastructure and his subcommittee chairman in working with the other body to get a compromise of extension that works so well for our States as we continue this continuity of transportation projects and creating and maintaining the jobs that these construction opportunities exist through the transportation bill. But as we also look here, it is an opportunity for us to continue to get an agreement that both bodies and the White House will look to be a 6-year plan following the extension that is here.

My colleague, the gentleman from Massachusetts (Mr. MCGOVERN), has been clear. A ''yes'' vote today keeps the projects moving and keeps and protects jobs. A ''no'' vote puts people out of work. The extension will do the job and we can continue in having a multiyear plan of the future based on the results of our actions today. So I call upon my colleagues to support this rule and the underlying extension.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. YOUNG of Alaska. Mr. Speaker, pursuant to House Resolution 811, I call up the bill (H.R. 5183) to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore (Mr. MILLER of Florida). Pursuant to House Resolution 811, the bill shall be considered as read for amendment:

The text of H.R. 5183 is as follows:

H.R. 5183

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 ''Surface Transportation Extension Act of 2004, Part V''.

SEC. 2. ADVANCES.

(a) IN GENERAL.—

(1) APPORTIONMENT RATIO.—Except as provided in paragraph (2), the Secretary of Transportation shall apportion funds made available under section 1101(1) of the Transportation Equity Act for the 21st Century (112 Stat. 111; 118 Stat. 876), as amended by this section, to each State in the ratio that—

(A) the State's total fiscal year 2004 obligation authority for funds apportioned for the Federal-aid highway program; bears to

(B) all States' total fiscal year 2004 obligation authority for funds apportioned for the Federal-aid highway program.

(2) EXCEPTION.—The ratios determined under this subsection shall be subject to the same adjustments as the adjustments made under section 105(f) of title 23, United States Code.

(b) PROGRAMMATIC DISTRIBUTIONS.—

(1) PROGRAMS.—Of the funds to be apportioned to each State under subsection (a), the Secretary shall ensure that the State is apportioned an amount of the funds, determined under paragraph (2), for the Interstate maintenance program, the National Highway System program, the bridge program, the surface transportation program, the congestion mitigation and air quality improvement program, the recreational trails program, the Appalachian development highway system program, and the minimum guarantee.

(2) IN GENERAL.—The amount that each State shall be apportioned under this subsection for each item referred to in paragraph (1) shall be determined by multiplying—

(A) the amount apportioned to the State under subsection (a); by

(B) the ratio that—

(i) the amount of funds apportioned for the item to the State for fiscal year 2004; bears to

(ii) the total of the amount of funds apportioned for the items to the State for fiscal year 2004.

(3) ADMINISTRATION OF FUNDS.—Funds authorized by the amendment made under subsection (d) shall be administered as if the funds had been apportioned, allocated, deducted, or set aside, as the case may be, under title 23, United States Code; except that the deductions and set-asides in the following sections of such title shall not apply to such funds: sections 104(a)(1)(A), 104(a)(1)(B), 104(b)(1)(A), 104(d)(1), 104(d)(2), 104(f)(1), 104(h)(1), 118(c)(1), 140(b), 140(c), and 144(g)(1).

(4) SPECIAL RULES FOR MINIMUM GUARANTEE.—In carrying out the minimum guarantee under section 105(c) of title 23, United States Code, with funds apportioned under this section for the minimum guarantee, the $2,800,000,000 set forth in paragraph (1) of such section 105(c) shall be treated as being $1,866,666,667 and the aggregate of amounts apportioned to the States under this section for the minimum guarantee shall be treated, for purposes of such section 105(c), as amounts made available under section 105 of such title.

(5) EXTENSION OF OFF-SYSTEM BRIDGE SETASIDE.—Section 144(g)(3) of title 23, United States Code, is amended by inserting after ''2004'' the following: ''and in the period of October 1, 2004, through May 31, 2005,''.

(c) REPAYMENT FROM FUTURE APPORTIONMENTS.—

(1) IN GENERAL.—The Secretary shall reduce the amount that would be apportioned, but for this section, to a State for programs under chapter 1 of title 23, United States Code, for fiscal year 2005, under a multiyear law reauthorizing the Federal-aid highway program enacted after the date of enactment of this Act by the amount that is apportioned to each State under subsection (a) and section 5(c) for each such program.

(2) PROGRAM CATEGORY RECONCILIATION.—The Secretary may establish procedures under which funds apportioned under subsection (a) for a program category for which funds are not authorized under a law described in paragraph (1) may be restored to the Federal-aid highway program.

(d) AUTHORIZATION OF CONTRACT AUTHORITY.—Section 1101 of the Transportation Equity Act for the 21st Century (112 Stat. 111–115; 117 Stat. 1118; 118 Stat. 876) is amended by adding at the end the following:

''(l) ADVANCE AUTHORIZATION FOR FISCAL YEAR 2005.—

''(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 2(a) of the Surface Transportation Extension Act of 2004, Part V $21,311,774,667 for the period of October 1, 2004, through May 31, 2005.

''(2) SPECIAL RULE.—Funds apportioned under section 2(a) of the Surface Transportation Extension Act of 2004, Part V shall be subject to a limitation on obligations for Federal-aid highways and highway safety construction programs.

''(3) CONTRACT AUTHORITY.—Funds made available by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.''.

(e) LIMITATION ON OBLIGATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), upon enactment of an Act making appropriations for the Department of Transportation for fiscal year 2005 (other than an Act or resolution making continuing appropriations), the Secretary shall distribute 8/12 of the obligation limitation for Federal-aid highways and highway safety construction programs provided by such Act according to the provisions of such Act.

(2) EXCEPTIONS.—

(A) DETERMINATION OF AMOUNTS.—Any instruction in such Act that would require the distribution or reservation of obligation limitation prior to distributing the remainder of the obligation limitation to the States shall be executed as if the program, project, or activity for which obligation limitation is so distributed or reserved was authorized at an amount equivalent to the greater of—

(i) the amount authorized for such program, project, or activity in this Act; or

(ii) 8/12 of the amount provided for or limitation set on such program, project, or activity in the Act making appropriations for the Department of Transportation for fiscal year 2005.

(B) MINIMUM GUARANTEE.—Obligations for the period October 1, 2004, through May 31, 2005, shall not exceed the obligation limitation distributed by this subsection, except that this limitation shall not apply to $426,000,000 in obligations for minimum guarantee for such period.

(3) TIME PERIOD FOR OBLIGATIONS.—After May 31, 2005, no funds shall be obligated for any Federal-aid highway program project until the date of enactment of a multiyear law reauthorizing the Federal-aid highway program enacted after the date of enactment of this Act.

(4) TREATMENT OF OBLIGATIONS.—Any obligation of obligation authority distributed under this subsection shall be considered to be an obligation for Federal-aid highways and highway safety construction programs for fiscal year 2005 for the purposes of any obligation limitation set in an Act making appropriations for the Department of Transportation for fiscal year 2005.

SEC. 3. TRANSFERS OF UNOBLIGATED APPORTIONMENTS.

(a) IN GENERAL.—In addition to any other authority of a State to transfer funds, for fiscal year 2005, a State may transfer any funds apportioned to the State for any program under section 104(b) (including amounts apportioned under section 104(b)(3) or set aside, made available, or suballocated under section 133(d)) or section 144 of title 23, United States Code, before, on, or after the date of enactment of this Act, that are subject to any limitation on obligations, and that are not obligated, to any other of those programs.

(b) TREATMENT OF TRANSFERRED FUNDS.—Any funds transferred to another program under subsection (a) shall be subject to the provisions of the program to which the funds are transferred, except that funds transferred to a program under section 133 (other than subsections (d)(1) and (d)(2)) of title 23, United States Code, shall not be subject to section 133(d) of that title.

(c) RESTORATION OF APPORTIONMENTS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of a multiyear law reauthorizing the Federal-aid highway program enacted after the date of enactment of this Act, the Secretary of Transportation shall restore any funds that a State transferred under subsection (a) for any project not eligible for the funds but for this section to the program category from which the funds were transferred.

(2) PROGRAM CATEGORY RECONCILIATION.—The Secretary may establish procedures under which funds transferred under subsection (a) from a program category for which funds are not authorized may be restored to the Federal-aid highway program.

(3) LIMITATION ON STATUTORY CONSTRUCTION.—No provision of law, except a statute enacted after the date of enactment of this Act that expressly limits the application of this subsection, shall impair the authority of the Secretary to restore funds pursuant to this subsection.

(d) GUIDANCE.—The Secretary may issue guidance for use in carrying out this section.

(e) PROHIBITION OF TRANSFERS.—Notwithstanding any other provision of this section, no funds may be transferred by a State under subsection (a)—

(1) from amounts apportioned to the State for the congestion mitigation and air quality improvement program; and

(2) from amounts apportioned to the State for the surface transportation program and that are subject to any of paragraphs (1), (2), and (3)(A)(i) of section 133(d) of title 23, United States Code.

SEC. 4. ADMINISTRATIVE EXPENSES.

(a) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) for administrative expenses of the Federal-aid highway program $234,682,667 for fiscal year 2005.

(b) CONTRACT AUTHORITY.—Funds made available by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, and shall be subject to a limitation on obligations for Federal-aid highways and highway safety construction programs; except that such funds shall remain available until expended.

SEC. 5. OTHER FEDERAL-AID HIGHWAY PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE I OF TEA21.—

(1) FEDERAL LANDS HIGHWAYS.—

(A) INDIAN RESERVATION ROADS.—Section 1101(a)(8)(A) of the Transportation Equity Act for the 21st Century (112 Stat. 112; 118 Stat. 877) is amended—

(i) by inserting before the period at the end the following: ''and $183,333,333 for the period of October 1, 2004, through May 31, 2005''; and

(ii) by adding at the end the following: ''The minimum amount made available for such period that the Secretary, in cooperation with the Secretary of the Interior, shall reserve for Indian reservation road bridges under section 202(d)(4) of title 23, United States Code, shall be $8,666,667 instead of $13,000,000.''.

(B) PUBLIC LANDS HIGHWAYS.—Section 1101(a)(8)(B) of such Act (112 Stat. 112; 118 Stat. 878) is amended by inserting before the period at the end the following: ''and $164,000,000 for the period of October 1, 2004, through May 31, 2005''.

(C) PARK ROADS AND PARKWAYS.—Section 1101(a)(8)(C) of such Act (112 Stat. 112; 118 Stat. 878) is amended by inserting before the period at the end the following: ''and $110,000,000 for the period of October 1, 2004, through May 31, 2005''.

(D) REFUGE ROADS.—Section 1101(a)(8)(D) of such Act (112 Stat. 112; 118 Stat. 878) is amended by inserting before the period at the end the following: ''and $13,333,333 for the period of October 1, 2004, through May 31, 2005''.

(2) NATIONAL CORRIDOR PLANNING AND DEVELOPMENT AND COORDINATED BORDER INFRASTRUCTURE PROGRAMS.—Section 1101(a)(9) of such Act (112 Stat. 112; 118 Stat. 878) is amended by inserting before the period at the end the following: ''and $93,333,333 for the period of October 1, 2004, through May 31, 2005''.

(3) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—

(A) IN GENERAL.—Section 1101(a)(10) of such Act (112 Stat. 113; 118 Stat. 878) is amended by inserting before the period at the end the following: ''and $25,333,333 for the period of October 1, 2004, through May 31, 2005''.

(B) SET ASIDE FOR ALASKA, NEW JERSEY, AND WASHINGTON.—To carry out section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 129 note; 105 Stat. 2005; 112 Stat. 185; 118 Stat. 878), of funds made available by the amendment made by subparagraph (A)—

(i) $6,666,667 shall be available for section 1064(d)(2);

(ii) $3,333,333 shall be available for section 1064(d)(3); and

(iii) $3,333,333 shall be available for section 1064(d)(4).

(4) NATIONAL SCENIC BYWAYS PROGRAM.—Section 1101(a)(11) of the Transportation Equity Act for the 21st Century (112 Stat. 113; 118 Stat. 878) is amended—

(A) by striking ''and'' the last place it appears; and

(B) by inserting before the period at the end the following: '', and $17,666,667 for the period of October 1, 2004, through May 31, 2005''.

(5) VALUE PRICING PILOT PROGRAM.—Section 1101(a)(12) of such Act (112 Stat. 113; 118 Stat. 878) is amended by inserting before the period at the end the following: '', and $7,333,333 for the period of October 1, 2004, through May 31, 2005''.

(6) HIGHWAY USE TAX EVASION PROJECTS.—Section 1101(a)(14) of such Act (112 Stat. 113; 118 Stat. 878) is amended by inserting before the period at the end the following: ''and $3,333,333 for the period of October 1, 2004, through May 31, 2005''.

(7) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—

(A) IN GENERAL.—Section 1101(a)(15) of such Act (112 Stat. 113; 118 Stat. 879) is amended by inserting before the period at the end the following: ''and $73,333,333 for the period of October 1, 2004, through May 31, 2005''.

(B) CONFORMING AMENDMENT.—Section 1214(r)(1) of such Act (112 Stat. 209; 117 Stat. 1114) is amended by striking ''2004'' and inserting ''2005''.

(8) SAFETY GRANTS.—Section 1212(i)(1)(D) of such Act (23 U.S.C. 402 note; 112 Stat. 196; 112 Stat. 840; 118 Stat. 879) is amended by inserting before the period at the end the following: ''and $333,333 for the period of October 1, 2004, through May 31, 2005''.

(9) TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.—Section 1221(e)(1) of such Act (23 U.S.C. 101 note; 112 Stat. 223; 118 Stat. 879) is amended by inserting before the period at the end the following: ''and $16,666,667 for the period of October 1, 2004, through May 31, 2005''.

(10) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION.—Section 188 of title 23, United States Code, is amended—

(A) in subsection (a)(1)—

(i) by striking ''and'' at the end of subparagraph (E);

(ii) by striking the period at the end of subparagraph (F) and inserting ''; and''; and

(iii) by adding at the end the following:

''(G) $86,666,667 for the period of October 1, 2004, through May 31, 2005.'';

(B) in subsection (a)(2) by inserting after ''2004'' the following: ''and $1,333,333 for the period of October 1, 2004, through May 31, 2005''; and

(C) in subsection (c)—

(i) by striking ''2004'' and inserting ''2005''; and

(ii) by striking the period at the end of the table and inserting the following:

''2005 ..... $1,733,333,333.''.

(11) NATIONAL SCENIC BYWAYS CLEARINGHOUSE.—Section 1215(b)(3) of the Transportation Equity Act of the 21st Century (112 Stat. 210) is amended by inserting before the period at the end ''and $1,000,000 for the period of October 1, 2004, through May 31, 2005''.

(b) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE V OF TEA21.—

(1) SURFACE TRANSPORTATION RESEARCH.—Section 5001(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 419; 118 Stat. 879) is amended—

(A) by striking ''2003, and'' and inserting ''2003,''; and

(B) by inserting after ''2004'' the following: '', and $68,666,667 for the period of October 1, 2004, through May 31, 2005''.

(2) TECHNOLOGY DEPLOYMENT PROGRAM.—Section 5001(a)(2) of such Act (112 Stat. 419; 118 Stat. 879) is amended—

(A) by striking ''2003, and'' and inserting ''2003,''; and

(B) by inserting after ''2004'' the following: '', and $33,333,333 for the period of October 1, 2004, through May 31, 2005''.

(3) TRAINING AND EDUCATION.—Section 5001(a)(3) of such Act (112 Stat. 420; 118 Stat. 879) is amended—

(A) by striking ''2003, and'' and inserting ''2003,''; and

(B) by inserting after ''2004'' the following: '', and $13,333,333 for the period of October 1, 2004, through May 31, 2005''.

(4) BUREAU OF TRANSPORTATION STATISTICS.—Section 5001(a)(4) of such Act (112 Stat. 420; 118 Stat. 879) is amended by inserting before the period at the end the following: '', and $20,666,667 for the period of October 1, 2004, through May 31, 2005''.

(5) ITS STANDARDS, RESEARCH, OPERATIONAL TESTS, AND DEVELOPMENT.—Section 5001(a)(5) of such Act (112 Stat. 420; 118 Stat. 879) is amended—

(A) by striking ''2003, and'' and inserting ''2003,''; and

(B) by inserting after ''2004'' the following: '', and $73,333,333 for the period of October 1, 2004, through May 31, 2005''.

(6) ITS DEPLOYMENT.—Section 5001(a)(6) of such Act (112 Stat. 420; 118 Stat. 880) is amended—

(A) by striking ''2003, and'' and inserting ''2003,''; and

(B) by inserting after ''2004'' the following: '', and $81,333,333 for the period of October 1, 2004, through May 31, 2005''.

(7) UNIVERSITY TRANSPORTATION RESEARCH.—Section 5001(a)(7) of such Act (112 Stat. 420; 118 Stat. 880) is amended—

(A) by striking ''2003, and'' and inserting ''2003,''; and

(B) by inserting after ''2004'' the following: '', and $17,666,667 for the period of October 1, 2004, through May 31, 2005''.

(c) METROPOLITAN PLANNING.—

(1) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 134 of title 23, United States Code, $145,000,000 for the period of October 1, 2004, through May 31, 2005.

(2) DISTRIBUTION OF FUNDS.—The Secretary shall distribute funds made available by this subsection to the States in accordance with

section 104(f)(2) of title 23, United States Code.

(3) CONTRACT AUTHORITY.—Funds made available by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, and shall be subject to a limitation on obligations for Federal-aid highways and highway safety construction programs.

(d) TERRITORIES.—Section 1101(d)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 111–115; 117 Stat. 1116; 118 Stat. 880) is amended by inserting after ''2004'' the following: ''and $24,266,667 for the period of October 1, 2004, through May 31, 2005''.

(e) ALASKA HIGHWAY.—Section 1101(e)(1) of such Act (117 Stat. 1116; 118 Stat. 880) is amended by inserting after ''2004'' the following: ''and $12,533,333 for the period of October 1, 2004, through May 31, 2005''.

(f) OPERATION LIFESAVER.—Section 1101(f)(1) of such Act (117 Stat. 1117; 118 Stat. 880) is amended by inserting after ''2004'' the following: ''and $333,333 for the period of October 1, 2004, through May 31, 2005''.

(g) BRIDGE DISCRETIONARY.—Section 1101(g)(1) of such Act (117 Stat. 1117; 118 Stat. 880) is amended by inserting after ''2004'' the following: ''and $66,666,667 for the period of October 1, 2004, through May 31, 2005''.

(h) INTERSTATE MAINTENANCE.—Section 1101(h)(1) of such Act (117 Stat. 1117; 118 Stat. 880) is amended by inserting after ''2004'' the following: ''and $66,666,667 for the period of October 1, 2004, through May 31, 2005''.

(i) RECREATIONAL TRAILS ADMINISTRATIVE COSTS.—Section 1101(i)(1) of such Act (117 Stat. 1117; 118 Stat. 880) is amended by inserting after ''2004'' the following: ''and $500,000 for the period of October 1, 2004, through May 31, 2005''.

(j) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—Section 1101(j)(1) of such Act (117 Stat. 1118; 118 Stat. 881) is amended—

(1) by inserting before ''; except'' the following: ''and $3,500,000 for the period of October 1, 2004, through May 31, 2005''; and

(2) by inserting before ''for eligible'' the following: ''and not less than $166,667 instead of $250,000 shall be available for the period of October 1, 2004, through May 31, 2005,''.

(k) NONDISCRIMINATION.—Section 1101(k) of such Act (117 Stat. 1118; 118 Stat. 881) is amended—

(1) in paragraph (1) by inserting after ''2004'' the following: ''and $6,666,667 for the period of October 1, 2004, through May 31, 2005''; and

(2) in paragraph (2) by inserting after ''2004'' the following: ''and $6,666,667 for the period of October 1, 2004, through May 31, 2005''.

(l) ADMINISTRATION OF FUNDS.—Funds authorized by the amendments made by this section shall be administered as if the funds had been apportioned, allocated, deducted, or set aside, as the case may be, under title 23, United States Code, except that the deductions under sections 104(a)(1)(A) and 104(a)(1)(B) of such title shall not apply to funds made available by the amendment made by subsection (a)(1) of this section.

(m) REDUCTION OF ALLOCATED PROGRAMS.—The Secretary of Transportation shall reduce the amount that would be made available, but for this section, for fiscal year 2005 for allocation under a program, that is continued both by a multiyear law reauthorizing such program enacted after the date of enactment of this Act and by this section, by the amount made available for such program by this section.

(n) PROGRAM CATEGORY RECONCILIATION.—The Secretary may establish procedures under which funds allocated under this section for fiscal year 2005 for a program category for which funds are not authorized for fiscal year 2005 under a multiyear law reauthorizing the Federal-aid highway program enacted after the date of enactment of this Act may be restored to the Federal-aid highway program.

SEC. 6. EXTENSION OF HIGHWAY SAFETY PROGRAMS.

(a) CHAPTER 1 HIGHWAY SAFETY PROGRAMS.—

(1) SEAT BELT SAFETY INCENTIVE GRANTS.—Section 157 of title 23, United States Code, is amended—

(A) in subsection (a)(3) by striking ''2002'' and inserting ''2003'';

(B) in subsection (a)(8)(B) by striking ''2002'' and inserting ''2003'';

(C) in subsection (b) by striking ''2003'' and inserting ''2005'';

(D) in subsection (c)(1) by striking ''2003'' and inserting ''2004'';

(E) in subsection (c)(2) by striking ''2003'' and inserting ''2004'';

(F) in subsection (f)(4) by striking ''2003'' and inserting ''2004'';

(G) in subsection (g)(1)—

(i) by striking ''and''; and

(ii) by inserting before the period at the end the following: '', and $74,666,667 for the period of October 1, 2004, through May 31, 2005'';

(H) in the heading to subsection (g)(3)(B) by striking ''2004'' and inserting ''2005''; and

(I) in subsection (g)(3)(B) by striking ''2004'' and inserting ''2005''.

(2) PREVENTION OF INTOXICATED DRIVER INCENTIVE GRANTS.—Section 163(e)(1) of such title is amended—

(A) by striking ''and''; and

(B) by inserting before the period at the end the following: '', and $73,333,333 for the period of October 1, 2004, through May 31, 2005''.

(b) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Section 2009(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 337; 118 Stat. 886) is amended—

(1) by striking ''and''; and

(2) by inserting before the period at the end the following: '', and $110,000,000 for the period of October 1, 2004, through May 31, 2005''.

(c) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—Section 2009(a)(2) of such Act (112 Stat. 337; 118 Stat. 886) is amended by inserting after ''2004'' the following: '', and $48,000,000 for the period of October 1, 2004, through May 31, 2005''.

(d) OCCUPANT PROTECTION INCENTIVE GRANTS.—Section 2009(a)(3) of such Act (112 Stat. 337; 118 Stat. 886) is amended—

(1) by striking ''and'' the last place it appears; and

(2) by inserting before the period at the end the following: '', and $13,333,333 for the period of October 1, 2004, through May 31, 2005''.

(e) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANTS.—

(1) EXTENSION OF PROGRAM.—Section 410 of title 23, United States Code, is amended—

(A) in subsection (a)(3) by striking ''7'' and inserting ''8''; and

(B) in subsection (a)(4)(C) by striking ''and seventh'' and inserting '', seventh, and eighth''.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 2009(a)(4) of such Act (112 Stat. 337; 118 Stat. 886) is amended—

(A) by striking ''and'' the last place it appears; and

(B) by inserting before the period at the end the following: '', and $26,666,667 for the period of October 1, 2004, through May 31, 2005''.

(f) NATIONAL DRIVER REGISTER.—Section 2009(a)(6) of such Act (112 Stat. 338; 118 Stat. 886) is amended by inserting after ''2004'' the following: '', and $2,400,000 for the period of October 1, 2004, through May 31, 2005''.

(g) ALLOCATIONS.—Section 2009(b) of such Act (112 Stat. 338) is amended—

(1) in paragraph (1) by striking ''2004'' and inserting ''2005''; and

(2) in paragraph (2) by striking ''2004'' and inserting ''2005''.

(h) APPLICABILITY OF TITLE 23.—Section 2009(c) of such Act (112 Stat. 338) is amended by striking ''2004'' and inserting ''2005''.

SEC. 7. EXTENSION OF MOTOR CARRIER SAFETY ADMINISTRATION PROGRAM.

(a) ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to pay administrative expenses of the Federal Motor Carrier Safety Administration $160,552,536 for the period of October 1, 2004, through May 31, 2005.

(2) USE OF FUNDS.—Funds authorized by this subsection may be used for personnel costs; administrative infrastructure; rent; information technology; and programs for research and technology, regulatory development, and other operating expenses and similar matters. Such funds available may also be used to make grants to, or enter into contracts with, States, local governments, or other persons for implementation of the Commercial Driver's License Improvement Grants and the Border Enforcement Grants programs.

(b) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—Section 31104(a) of title 49, United States Code, is amended by adding at the end the following:

''(8) Not more than $112,512,329 for the period of October 1, 2004, through May 31, 2005.''.

(c) INFORMATION SYSTEMS AND COMMERCIAL DRIVER'S LICENSE GRANTS.—

(1) AUTHORIZATION OF APPROPRIATION.—Section 31107(a) of such title is amended—

(A) by striking ''and'' at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting ''; and''; and

(C) by adding at the end the following:

''(6) $13,315,068 for the period of October 1, 2004 through May 31, 2005.''.

(2) EMERGENCY CDL GRANTS.—From amounts made available by section 31107(a) of title 49, United States Code, for the period of October 1, 2004 through May 31, 2005, the Secretary of Transportation may make grants of up to $665,753 to a State whose commercial driver's license program may fail to meet the compliance requirements of section 31311(a) of such title.

(d) CRASH CAUSATION STUDY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) for the Federal Motor Carrier Safety Administration to continue the crash causation study required by section 224 of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31100 note; 113 Stat. 1770–1771), $665,753 for the period of October 1, 2004 through May 31, 2005.

(e) CONTRACT AUTHORITY.—Funds made available by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(f) RULE STAY.—The hours-of-service regulations applicable to property-carrying commercial drivers contained in the Final Rule published on April 28, 2003 (68 Fed. Reg. 22456-22517), as amended on September 30, 2003 (68 Fed. Reg. 56208-56212), and made applicable to motor carriers and drivers on January 4, 2004, shall be in effect until the earlier of—

(1) the effective date of a new final rule addressing the issues raised by the July 16, 2004, decision of the United States Court of Appeals for the District of Columbia in Public Citizen, et al. v. Federal Motor Carrier Safety Administration (No. 03-1165); or

(2) September 30, 2005.

SEC. 8. EXTENSION OF FEDERAL TRANSIT PROGRAMS.

(a) ALLOCATING AMOUNTS.—Section 5309(m) of title 49, United States Code, is amended—

(1) in the matter preceding subparagraph (A) of paragraph (1) by inserting ''and for the period of October 1, 2004, through May 31, 2005'' after ''2004'';

(2) in paragraph (2)(B) by inserting after clause (ii) the following:

''(iii) OCTOBER 1, 2004 THROUGH MAY 31, 2005.—Of the amounts made available under paragraph (1)(B), $6,933,333 shall be available for the period of October 1, 2004, through May 31, 2005, for capital projects described in clause (i).'';

(3) in paragraph (3)(B) by inserting after ''2004'' the following: ''(and $2,000,000 shall be available for the period October 1, 2004, through May 31, 2005)''; and

(4) in paragraph (3)(C) by inserting after ''2004)'' the following: '', and $33,333,333 shall be available for the period October 1, 2004, through May 31, 2005,''.

(b) APPORTIONMENT OF APPROPRIATIONS FOR FIXED GUIDEWAY MODERNIZATION.—The Secretary of Transportation shall determine the amount that each urbanized area is to be apportioned for fixed guideway modernization under section 5337 of title 49, United States Code, on a pro rata basis to reflect the partial fiscal year 2005 funding made available by sections 5338(b)(2)(A)(vii) and 5338(b)(2)(B)(vii) of such title.

(c) FORMULA GRANTS AUTHORIZATIONS.—Section 5338(a) of such title is amended—

(1) in the heading to paragraph (2) by inserting ''AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005'' after ''2004'';

(2) by striking ''and'' at the end of paragraphs (2)(A)(v) and (2)(B)(v);

(3) by striking the period at the end of paragraphs (2)(A)(vi) and (2)(B)(vi) and inserting ''; and'';

(4) by adding at the end of paragraph (2)(A) the following:

''(vii) $2,201,760,000 for the period of October 1, 2004, through May 31, 2005.'';

(5) by adding at the end in paragraph (2)(B) the following:

''(vii) $550,440,000 for the period of October 1, 2004, through May 31, 2005.''; and

(6) in paragraph (2)(C) by striking ''2003'' and inserting the following: ''2005 (other than for the period of October 1, 2004, through May 31, 2005)''.

(d) ALLOCATION OF FORMULA GRANT FUNDS FOR OCTOBER 1, 2004, THROUGH MAY 31, 2005.—Of the aggregate of amounts made available by and appropriated under section 5338(a)(2) of title 49, United States Code, for the period of October 1, 2004, through May 31, 2005—

(1) $3,233,300 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307 of such title;

(2) $33,333,333 shall be available for clean fuels formula grants under section 5308 of such title;

(3) $65,064,001 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310 of such title;

(4) $172,690,702 shall be available to provide financial assistance for other than urbanized areas under section 5311 of such title;

(5) $4,633,333 shall be available to provide financial assistance in accordance with section 3038(g) of the Transportation Equity Act for the 21st Century; and

(6) $2,473,245,331 shall be available to provide financial assistance for urbanized areas under section 5307 of such title.

(e) CAPITAL PROGRAM AUTHORIZATIONS.—Section 5338(b) of such title is amended—

(1) in the heading to paragraph (2) by inserting ''AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005'' after ''2004'';

(2) by striking ''and'' at the end of paragraphs (2)(A)(v) and (2)(B)(v);

(3) by striking the period at the end of paragraphs (2)(A)(vi) and (2)(B)(vi) and inserting ''; and'';

(4) by adding at the end of paragraph (2)(A) the following:

''(vii) $1,740,960,000 for the period of October 1, 2004, through May 31, 2005.''; and

(5) by adding at the end of paragraph (2)(B) the following:

''(vii) $435,240,000 for the period of October 1, 2004, through May 31, 2005.''.

(f) PLANNING AUTHORIZATIONS AND ALLOCATIONS.—Section 5338(c) is amended—

(1) in the heading to paragraph (2) by inserting ''AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005'' after ''2004'';

(2) by striking ''and'' at the end of paragraphs (2)(A)(v) and (2)(B)(v);

(3) by striking the period at the end of paragraphs (2)(A)(vi) and (2)(B)(vi) and inserting ''; and'';

(4) by adding at the end of paragraph (2)(A) the following:

''(vii) $41,813,334 for the period of October 1, 2004, through May 31, 2005.'';

(5) by adding at the end of paragraph (2)(B) the following:

''(vii) $10,453,333 for the period of October 1, 2004, through May 31, 2005.''; and

(6) in paragraph (2)(C) by inserting ''or any portion of a fiscal year'' after ''fiscal year''.

(g) RESEARCH AUTHORIZATIONS.—Section 5338(d) of such title is amended—

(1) in the heading to paragraph (2) by inserting ''AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005'' after ''2004'';

(2) by striking ''and'' at the end of paragraphs (2)(A)(v) and (2)(B)(v);

(3) by striking the period at the end of paragraphs (2)(A)(vi) and (2)(B)(vi) and inserting ''; and'';

(4) by adding at the end of paragraph (2)(A) the following:

''(vii) $28,266,667 for the period of October 1, 2004, through May 31, 2005.'';

(5) by adding at the end of paragraph (2)(B) the following:

''(vii) $7,066,667 for the period of October 1, 2004, through May 31, 2005.''; and

(6) in paragraph (2)(C) by inserting after ''a fiscal year'' the following: ''(other than for the period of October 1, 2004, through May 31, 2005)''.

(h) ALLOCATION OF RESEARCH FUNDS FOR OCTOBER 1, 2004, THROUGH MAY 31, 2005.—Of the funds made available by or appropriated under section 5338(d)(2) of title 49, United States Code, for the period of October 1, 2004, through May 31, 2005—

(1) not less than $3,500,000 shall be available for providing rural transportation assistance under section 5311(b)(2) of such title;

(2) not less than $5,500,000 shall be available for carrying out transit cooperative research programs under section 5313(a) of such title;

(3) not less than $2,666,667 shall be available to carry out programs under the National Transit Institute under section 5315 of such title, including not more than $666,667 shall be available to carry out section 5315(a)(16) of such title; and

(4) any amounts not made available under paragraphs (1) through (3) shall be available for carrying out national planning and research programs under sections 5311(b)(2), 5312, 5313(a), 5314, and 5322 of such title.

(i) UNIVERSITY TRANSPORTATION RESEARCH AUTHORIZATIONS.—Section 5338(e) of such title is amended—

(1) in the heading to paragraph (2) by inserting ''AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005'' after ''2004'';

(2) in paragraph (2)(A) by inserting after ''2004'' the following: ''and $3,200,000 for the period of October 1, 2004, through May 31, 2005'';

(3) in paragraph (2)(B) by inserting after ''2004'' the following: ''and $800,000 for the period of October 1, 2004, through May 31, 2005''; and

(4) in paragraphs (2)(C)(i) and (2)(C)(iii) by inserting after ''fiscal year'' the following: ''(other than for the period of October 1, 2004, through May 31, 2005)''.

(j) ALLOCATION OF UNIVERSITY TRANSPORTATION RESEARCH FUNDS.—

(1) IN GENERAL.—Of the amounts made available under section 5338(e)(2)(A) of title 49, United States Code, for the period October 1, 2004, through May 31, 2005—

(A) $1,333,333 shall be available for the center identified in section 5505(j)(4)(A) of such title; and

(B) $1,333,333 shall be available for the center identified in section 5505(j)(4)(F) of such title.

(2) TRAINING AND CURRICULUM DEVELOPMENT.—Notwithstanding section 5338(e)(2) of such title, any amounts made available under such section for the period October 1, 2004, through May 31, 2005, that remain after distribution under paragraph (1), shall be available for the purposes identified in section 3015(d) of the Transportation Equity Act for the 21st Century (112 Stat. 857).

(3) CONFORMING AMENDMENT.—Section 3015(d)(2) of the Transportation Equity Act for the 21st Century (112 Stat. 857; 118 Stat. 884) is amended by inserting ''or in the period October 1, 2004, through May 31, 2005'' after ''2004''.

(k) ADMINISTRATION AUTHORIZATIONS.—Section 5338(f) of such title is amended—

(1) in the heading to paragraph (2) by inserting ''AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005'' after ''2004'';

(2) by striking ''and'' at the end of paragraphs (2)(A)(v) and (2)(B)(v);

(3) by striking the period at the end of paragraphs (2)(A)(vi) and (2)(B)(vi) and inserting ''; and'';

(4) by adding at the end of paragraph (2)(A) the following:

''(vii) $41,600,000 for the period of October 1, 2004, through May 31, 2005.''; and

(5) by adding at the end of paragraph (2)(B) the following:

''(vii) $10,400,000 for the period of October 1, 2004, through May 31, 2005.''.

(l) JOB ACCESS AND REVERSE COMMUTE PROGRAM.—Section 3037(l) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note; 112 Stat. 391–392; 118 Stat. 884) is amended—

(1) by striking ''and'' at the end of paragraphs (1)(A)(v) and (1)(B)(v);

(2) by striking the period at the end of paragraphs (1)(A)(vi) and (1)(B)(vi) and inserting ''; and'';

(3) by adding at the end of paragraph (1)(A) the following:

''(vii) $80,000,000 for the period of October 1, 2004, through May 31, 2005.'';

(4) by adding at the end of paragraph (1)(B) the following:

''(vii) $20,000,000 for the period of October 1, 2004, through May 31, 2005.''; and

(5) by inserting before the period at the end of paragraph (2) the following: ''; except that in the period of October 1, 2004, through May 31, 2005, not more than $6,666,667 shall be used for such projects''.

(m) RURAL TRANSPORTATION ACCESSIBILITY INCENTIVE PROGRAM.—Section 3038(g) of such Act (49 U.S.C. 5310 note; 112 Stat. 393; 118 Stat. 885) is amended—

(1) by adding at the end of paragraph (1) the following:

''(G) $3,500,000 for the period of October 1, 2004, through May 31, 2005.''; and

(2) in paragraph (2) by inserting after ''2004'' the following: ''(and $1,133,333 shall be available for the period of October 1, 2004, through May 31, 2005)''.

(n) URBANIZED AREA FORMULA GRANTS.—Section 5307(b) of title 49, United States Code, is amended—

(1) in the heading to paragraph (2) by inserting ''AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005'' after ''2004''; and

(2) in paragraph (2)(A) by inserting ''and for the period of October 1, 2004, through May 31, 2005'' after ''2004,''.

(o) OBLIGATION CEILING.—Section 3040 of the Transportation Equity Act for the 21st Century (112 Stat. 394; 118 Stat. 885) is amended—

(1) by striking ''and'' at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting ''; and''; and

(3) by adding at the end the following:

''(7) $5,172,000,000 for the period of October 1, 2004, through May 31, 2005.''.

(p) FUEL CELL BUS AND BUS FACILITIES PROGRAM.—Section 3015(b) of such Act (112 Stat. 361; 118 Stat. 885) is amended by inserting ''(or, in the case of the period of October 1, 2004, through May 31, 2005, $3,233,333)'' after ''$4,850,000''.

(q) ADVANCED TECHNOLOGY PILOT PROJECT.—Section 3015(c)(2) of such Act (49 U.S.C. 322 note; 112 Stat. 361; 118 Stat. 885) is amended—

(1) by inserting ''and for the period of October 1, 2004, through May 31, 2005,'' after ''2004,''; and

(2) by inserting ''and $3,333,333 for such period'' after ''$5,000,000 per fiscal year''.

(r) PROJECTS FOR NEW FIXED GUIDEWAY SYSTEMS AND EXTENSIONS TO EXISTING SYSTEMS.—Section 3030 of such Act (112 Stat. 373–381; 118 Stat. 885) is amended—

(1) in subsections (a) and (b) by inserting ''and for the period of October 1, 2004, through May 31, 2005,'' after ''2004''; and

(2) in subsection (c)(1) by inserting ''and for the period of October 1, 2004, through May 31, 2005'' after ''2004''.

(s) NEW JERSEY URBAN CORE PROJECT.—Subparagraphs (A), (B), and (C) of section 3031(a)(3) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2122; 112 Stat. 379; 118 Stat. 885) are amended by inserting ''and for the period of October 1, 2004, through May 31, 2005,'' after ''2004,''.

(t) TREATMENT OF FUNDS.—Amounts made available under the amendments made by this section shall be treated for purposes of section 1101(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note) as amounts made available for programs under title III of such Act.

(u) LOCAL SHARE.—Section 3011(a) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5307 note; 118 Stat. 637; 118 Stat. 708; 118 Stat. 886) is amended by inserting ''and for the period of October 1, 2004, through May 31, 2005'' after ''2004''.

SEC. 9. SPORT FISHING AND BOATING SAFETY.

(a) FUNDING FOR NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM.—Section 4(c) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(c)) is amended—

(1) by striking ''and'' at the end of paragraph (5);

(2) by inserting ''and'' after the semicolon at the end of paragraph (6); and

(3) by inserting after paragraph (6) the following:

''(7) $6,666,664 for the period of October 1, 2004, through May 31, 2005;''.

(b) CLEAN VESSEL ACT FUNDING.—Section 4(b) of such Act (16 U.S.C. 777c(b)) is amended—

(1) in paragraph (4) by striking the paragraph heading and inserting ''FISCAL YEAR 2004'';

(2) by redesignating paragraph (5) as paragraph (6); and

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

''(5) FIRST 8 MONTHS OF FISCAL YEAR 2005.—For the period of October 1, 2004, through May 31, 2005, of the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to $54,666,664, reduced by 82 percent of the amount appropriated for that fiscal year from the Boat Safety Account of the Aquatic Resources Trust Fund established by section 9504 of the Internal Revenue Code of 1986 to carry out the purposes of section 13106(a) of title 46, United States Code, shall be used as follows:

''(A) $6,666,664 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

''(B) $5,333,334 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)).

''(C) The balance remaining after the application of subparagraphs (A) and (B) shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code.''.

(c) BOAT SAFETY FUNDS.—Section 13106(c) of title 46, United States Code, is amended to read as follows:

''(c)(1) Of the amount transferred to the Secretary of Transportation under paragraph (5)(C) of section 4(b) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(b)), $3,333,336 is available to the Secretary for payment of expenses of the Coast Guard for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program under this title, of which $1,333,336 shall be available to the Secretary only to ensure compliance with chapter 43 of this title.

''(2) No funds available to the Secretary under this subsection may be used to replace funding traditionally provided through general appropriations, nor for any purposes except those purposes authorized by this section.

''(3) Amounts made available by this subsection shall remain available until expended.

''(4) The Secretary shall publish annually in the Federal Register a detailed accounting of the projects, programs, and activities funded under this subsection.''.

SEC. 10. BUDGET LIMITATIONS.

(a) ADJUSTMENTS TO ANNUALIZED DISCRETIONARY SPENDING LIMITS.—In the matter that precedes subparagraph (A) of section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, strike ''through 2002''.

(b) DISCRETIONARY SPENDING LIMITS.—Section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) Strike paragraphs (1) through (7) and redesignate paragraph (8) (which relates to fiscal year 2005) as paragraph (1) and in such redesignated paragraph strike ''(1) with respect to fiscal year 2005'', redesignate the remaining matter as subparagraph (C), and before such redesignated matter insert the following:

''(1) with respect to fiscal year 2005—

''(A) for the highway category: $31,113,000,000 in outlays;

''(B) for the mass transit category: $1,453,000,000 in new budget authority and $6,535,000,000 in outlays; and''.

(2) Redesignate paragraphs (9) through (16) as paragraphs (2) through (9).

(c) CATEGORY DEFINED.—Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subparagraph (B) by inserting after ''Century'' the following: ''and the Surface Transportation Extension Act of 2004, Part V''; and

(2) in subparagraph (C)—

(A) by inserting after ''Century'' the first place it appears the following: ''and the Surface Transportation Extension Act of 2004, Part V''; and

(B) by striking ''that Act'' and inserting ''those Acts''.

(d) CONFORMANCE WITH THE CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2005.—Notwithstanding any other provision of law, all adjustments made pursuant to section 110(a)(2) of title 23, United States Code, to sums authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out each of the Federal-aid highway and highway safety construction programs (other than emergency relief) in fiscal year 2005 shall be deemed to be zero.

(e) SENSE OF CONGRESS ON ADJUSTMENT TO ALIGN HIGHWAY SPENDING WITH REVENUES.—It is the sense of Congress that, in any multiyear reauthorization of the Federal-aid highway program, the alignment of highway spending with revenues under section 251(b)(1)(B)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 should be restructured to minimize year-to-year fluctuations in highway spending levels and to ensure the uniform enforcement of such levels.

(f) SENSE OF CONGRESS ON FULLY GUARANTEED FUNDING.—It is the sense of Congress—

(1) in any multiyear law reauthorizing of the Federal-aid highway program enacted after the date of the enactment of this Act, the level of obligation limitations for fiscal year 2005 under the highway category and the mass transit category in section 8103 of the Transportation Equity Act for the 21st Century (2 U.S.C. 901 note), as amended and extended, should equal the obligation limitations for such categories authorized in such multiyear law;

(2) the highway account category obligation limitation level for fiscal year 2005 should be equal to the sum of the Federal Highway Administration, National Highway Safety Administration, and Federal Motor Carrier Safety Administration obligation limitations for fiscal year 2005 in such multiyear law; and

(3) the mass transit category obligation limitation level for fiscal year 2005 should be equal to the sum of budget authority and obligation limitation authorizations for Federal Transit Administration programs for fiscal year 2005 in such multiyear reauthorization.

SEC. 11. LEVEL OF OBLIGATION LIMITATIONS.

(a) HIGHWAY CATEGORY.—Section 8103(a) of the Transportation Equity Act for the 21st Century (2 U.S.C. 901 note; 112 Stat. 492; 117 Stat. 1128) is amended—

(1) by striking ''and'' at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting ''; and''; and

(3) by adding at the end the following:

''(7) for fiscal year 2005, $35,392,000,000.''.

(b) MASS TRANSIT CATEGORY.—Section 8103(b) of such Act (2 U.S.C. 901 note; 112 Stat. 492; 117 Stat. 1128) is amended—

(1) by striking ''and'' at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting ''; and''; and

(3) by adding at the end the following:

''(7) for fiscal year 2005, $7,265,000,000.''.

(c) TREATMENT OF FUNDS.—Notwithstanding any other provision of law, funds made available under this Act, including the amendments made by this Act, shall be deemed to be zero for the purposes of section 110 of the title 23, United States Code.

SEC. 12. EXTENSION OF HIGHWAY PROGRAMS THROUGH END OF FISCAL YEAR 2004.

(a) ADVANCES.—Section 2(a) of the Surface Transportation Extension Act of 2003 (23 U.S.C. 104 note; 117 Stat. 1110; 118 Stat. 876) is amended by striking ''and the Surface Transportation Extension Act of 2004, Part IV'' and inserting ''the Surface Transportation Extension Act of 2004, Part IV, and the Surface Transportation Extension Act of 2004, Part V''.

(b) AUTHORIZATION OF CONTRACT AUTHORITY.—Section 1101(c)(1) of the Transportation Equity Act for the 21st Century (117 Stat. 1111; 118 Stat. 876) is amended by striking ''the period of October 1, 2003, through September 24,'' and inserting ''fiscal year''.

(c) LIMITATION ON OBLIGATIONS.—Section 2(e) of the Surface Transportation Extension Act of 2003 (117 Stat. 1111; 118 Stat. 478; 118 Stat. 876) is amended—

(1) by striking paragraphs (1) through (4) and inserting:

''(1) DISTRIBUTION OF OBLIGATION AUTHORITY.—For the fiscal year 2004, the Secretary shall distribute the obligation limitation made available for Federal-aid highways and highway safety construction programs under the heading 'Federal-aid highways' in the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (division F of Public Law 108-199; 118 Stat. 291; 118 Stat. 1013), in accordance with section 110 of such Act.''; and

(2) by redesignating paragraph (5) as paragraph (2).

(d) PERIOD OF AVAILABILITY.—Obligation authority made available for fiscal year 2004 under section 2 of the Surface Transportation Extension Act of 2003 as a result of the amendments made by this section, that is in addition to obligation authority previously made available for fiscal year 2004 under section 2 of such Act (117 Stat. 1110; 118 Stat. 478; 118 Stat. 627; 118 Stat. 698; 118 Stat. 876), shall remain available for obligation during fiscal years 2004 and 2005, or for additional fiscal years if so made available in a law enacted before the date of enactment of this Act.

(e) PAYMENT FROM FUTURE APPORTIONMENTS.—The Surface Transportation Extension Act of 2003 (117 Stat. 1110) is amended—

(1) by striking section 2(c) (117 Stat. 1111; 118 Stat. 877);

(2) by striking section 3(c)(1) (117 Stat. 1112) and inserting the following:

''(1) IN GENERAL.—As soon as practicable after the date of enactment of the Surface Transportation Extension Act of 2004, Part V, the Secretary of Transportation shall restore any funds that a State transferred under subsection (a).''; and

(3) by striking section 5(n) (117 Stat. 1119; 118 Stat. 483; 118 Stat. 632; 118 Stat. 703; 118 Stat. 881).

(f) SUPPLEMENTAL MINIMUM GUARANTEE.—

(1) GENERAL RULE.—For fiscal year 2004, the Secretary shall allocate among the States amounts sufficient to ensure that each State's percentage of the total apportionments for such fiscal year pursuant to sections 2(a) and 5(c) of the Surface Transportation Extension Act of 2003 and amounts apportioned under this section shall equal the percentage listed for each State in section 105(b) of title 23, United States Code. The shares in such section shall be adjusted in accordance with section 105(f) of such title. The minimum amount allocated to a State under this subsection for the fiscal year shall be $1,000,000.

(2) AUTHORIZATION.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to carry out this subsection for fiscal year 2004.

(3) ADMINISTRATION OF FUNDS.—Funds apportioned to a State under this subsection—

(A) shall be available for obligation in the same manner as if such funds were apportioned to the State under chapter 1 of title 23, United States Code;

(B) shall be combined with funds apportioned to the State for the minimum guarantee program under section 2(a) of the Surface Transportation Extension Act of 2003; and

(C) shall be administered in the same manner as funds apportioned under section 105 of such title.

(4) OBLIGATION LIMITATION.—Funds apportioned under this subsection shall be subject to any limitation on obligations for Federal-aid highways and highway safety construction programs.

(g) CALCULATION OF ESTIMATED TRUST FUND CONTRIBUTIONS.—The amendment made by section 13(c) of this Act shall have no effect on the estimates of tax payments attributable to highway users in each State paid into the Highway Trust Fund for purposes of apportioning funds to States in fiscal year 2004 until enactment of a multiyear law reauthorizing surface transportation programs.

SEC. 13. EXTENSION OF AUTHORIZATION FOR USE OF TRUST FUNDS FOR OBLIGATIONS UNDER TEA–21.

(a) HIGHWAY TRUST FUND.—

(1) IN GENERAL.—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 is amended—

(A) in the matter before subparagraph (A), by striking ''October 1, 2004'' and inserting ''June 1, 2005'',

(B) by striking ''or'' at the end of subparagraph (I),

(C) by striking the period at the end of subparagraph (J) and inserting '', or'',

(D) by inserting after subparagraph (J) the following new subparagraph:

''(K) authorized to be paid out of the Highway Trust Fund under the Surface Transportation Extension Act of 2004, Part V.'', and

(E) in the matter after subparagraph (K), as added by this paragraph, by striking ''Surface Transportation Extension Act of 2004, Part IV'' and inserting ''Surface Transportation Extension Act of 2004, Part V''.

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) of such Code is amended—

(A) in the matter before subparagraph (A), by striking ''October 1, 2004'' and inserting ''June 1, 2005'',

(B) in subparagraph (G), by striking ''or'' at the end of such subparagraph,

(C) in subparagraph (H), by inserting ''or'' at the end of such subparagraph,

(D) by inserting after subparagraph (H) the following new subparagraph:

''(I) the Surface Transportation Extension Act of 2004, Part V,'', and

(E) in the matter after subparagraph (I), as added by this paragraph, by striking ''Surface Transportation Extension Act of 2004, Part IV'' and inserting ''Surface Transportation Extension Act of 2004, Part V''.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(5) of such Code is amended by striking ''October 1, 2004'' and inserting ''June 1, 2005''.

(4) CONFORMING AMENDMENT.—Subsection (a) of section 10 of the Surface Transportation Extension Act of 2004, Part IV is amended by striking paragraph (4).

(b) AQUATIC RESOURCES TRUST FUND.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) of the Internal Revenue Code of 1986 is amended by striking ''Surface Transportation Extension Act of 2004, Part IV'' each place it appears and inserting ''Surface Transportation Extension Act of 2004, Part V''.

(2) BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 of such Code is amended—

(A) by striking ''October 1, 2004'' and inserting ''June 1, 2005'', and

(B) by striking ''Surface Transportation Extension Act of 2004, Part IV'' and inserting ''Surface Transportation Extension Act of 2004, Part V''.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) of such Code is amended by striking ''October 1, 2004'' and inserting ''June 1, 2005''.

(c) ALL ALCOHOL FUEL TAXES TRANSFERRED TO HIGHWAY TRUST FUND FOR FISCAL YEAR 2004.—Subparagraphs (E) and (F) of section 9503(b)(4) (relating to certain taxes not transferred to Highway Trust Fund) are each amended by inserting ''before October 1, 2003, and for the period beginning after September 30, 2004, and'' before ''before October 1, 2005''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) TRANSFERS TO HIGHWAY TRUST FUND.—The amendments made by subsection (c) shall apply to taxes imposed after September 30, 2003.

(e) TEMPORARY RULE REGARDING ADJUSTMENTS.—During the period beginning on the date of the enactment of the Surface Transportation Extension Act of 2003 and ending on May 31, 2005, for purposes of making any estimate under section 9503(d) of the Internal Revenue Code of 1986 of receipts of the Highway Trust Fund, the Secretary of the Treasury shall treat—

(1) each expiring provision of paragraphs (1) through (4) of section 9503(b) of such Code which is related to appropriations or transfers to such Fund to have been extended through the end of the 24-month period referred to in section 9503(d)(1)(B) of such Code, and

(2) with respect to each tax imposed under the sections referred to in section 9503(b)(1) of such Code, the rate of such tax during the 24-month period referred to in section 9503(d)(1)(B) of such Code to be the same as the rate of such tax as in effect on the date of the enactment of the Surface Transportation Extension Act of 2003.

(f) APPORTIONMENT OF HIGHWAY TRUST FUNDS FOR FISCAL YEAR 2004.—Section 9503(d)(3) of the Internal Revenue Code of 1986 shall not apply to any apportionment to the States of the amounts authorized to be appropriated from the Highway Trust Fund for the fiscal year ending September 30, 2004.

The SPEAKER pro tempore. Pursuant to House Resolution 811, the gentleman from Alaska (Mr. YOUNG) and the gentleman from Illinois (Mr. LIPINSKI) each will control 30 minutes.

The Chair recognizes the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, much has been said during the rule about the obvious need for this extension, and I will agree with those who say we need a finalization of the 6-year

bill; but this extension gives us time to allow the States to go forth with their construction, with their projects that are necessary, and to keep some stability in our continued efforts to improve the transportation system in this great Nation of ours.

I truly believe this will be the last extension. I have endeavored and will continue to work until we sine die to try to make a finalization of the 6-year bill. I want to make sure everybody understands that just because this is an 8-month extension, it does not mean we have to wait 8 months to get it done. If I can get it done next week, we are going to get it done. If I can get it done the week after that, if we are not here, I cannot do that, but if we can get it done during the lame duck, we can do it then. Or we can do it in February, March, April, May, June, July, or in that period of time. Whatever we have to do, we will do to continue to improve our transportation system in our great Nation.

May I suggest, respectfully, since some have spoken on this bill about the reauthorization, our committee has done its work. The gentleman from Illinois (Mr. LIPINSKI), I see, is managing the bill today instead of the gentleman from Minnesota (Mr. OBERSTAR). We are going to miss him. He is no longer going to be with us next year, but he has done his work as the ranking member of the Subcommittee on Highways, Transit and Pipelines. The gentleman from Minnesota (Mr. OBERSTAR) has done his work; the gentleman from Wisconsin (Mr. PETRI) has done his work. We have done our work, and we have passed this legislation over to the other body.

Now, we can point a lot of fingers and we can say this guy, that person, this other person in the other body did not do it; but in reality there is a difference of philosophies. I personally will say that when we passed this bill in the House, I had $375 billion. That is the number I would like to have. Well, a lot of us would like to have some things which we cannot achieve. We have agreed and we have worked with the other body, and we did reach a number that, to me, was a great victory, $299 billion of contractual authority, $284.3 as obligated dollars, real dollars, with policies and philosophies in the bill. We reached those agreements. But, unfortunately, on both sides of the aisle there are some people in the other body that desire more, and we were unable to reach that agreement because it was not there.

I would have liked to have had what we agreed to, because I think it was the appropriate way to go. It did not mean it would be the final number, but we did not and were not able to achieve that. Consequently, we are here for this extension. As they said in the rules debate, this extension is badly needed to continue the stability of our transportation system.

But I will commit to this House and to this Nation that this committee will continue to work to finish this job and to work with the other body to arrive at a conclusion that I think is long overdue.

In closing, Mr. Speaker, I would suggest to this body that we are on the cusp of a disaster in transportation if we do not act soon. We are gathering in population more each day. We are importing more each day, we are exporting more each day, and we are becoming more congested each day. I am hoping that my State Governors, my State legislators, my State department of transportation and my mayors, all those people understand they too have to participate in solving this problem. It just cannot come from this body. They too must participate with ambitious and visionary ideas in helping to solve our transportation problems.

We all must work together. If we do not, we do not leave the appropriate legacy behind us so this country can continue to grow. I will say, Mr. Speaker, there are some in this country that do not want to improve the transportation system, because they realize if they do not improve upon it, then our ability to be competitive and to be the leaders of the free world will not occur. So I suggest to this body we must awaken the people and make sure they understand the effect upon them and they must respond and ask us, and, yes, their local legislators, their Governors, their mayors, and those people who lead them to say yes to participate together with us so we can solve this problem.

Mr. Speaker, this extension is necessary, and I urge passage of the extension.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Speaker, I rise in support of the legislation before us.

H.R. 5183, the Surface Transportation Extension Act of 2004, part V, continues the highway construction, highway safety, transit, motor carrier, and surface transportation research programs for 8 months of fiscal year 2005, expiring on May 31, 2005. Fiscal year 2004 is completed in this extension as well. The transportation programs under all previous extensions will be continued under this extension.

This is, we hope, the final short-term extension of the surface transportation programs' authorization. We have gotten extremely close to a fair and broadly accepted conclusion to the House-Senate conference on our multiyear authorization bill, but a stopgap measure is needed, once again, to give us time to finalize this deal.

This short-term extension is a ''must-pass'' bill. If Congress does not pass a bill and send it to the President today, new highway projects will be shelved, safety grants will not be provided to states, transit construction will be halted, and Federal enforcement of motor carrier safety regulations on the highways and at the borders will end.

H.R. 5183 provides more than $30 billion in new funding authority, which reflects 8 months' worth—or two-thirds of the funding authorization levels the House approved for fiscal year 2005 in TEA LU, H.R. 3550.

I urge my colleagues to support the passage of H.R. 5183 today. It is vitally important that this bill be passed by both the House and senate today, delivered to the President—the bill must be flown down to Florida—and signed before midnight tonight. Our economy cannot withstand the shutdown of the national surface transportation programs.

Mr. LIPINSKI. Mr. Speaker, I yield myself such time as I may consume.

(Mr. LIPINSKI asked and was given permission to revise and extend his remarks.)

Mr. LIPINSKI. Mr. Speaker, on September 29, the bipartisan leadership of the Committee on Transportation and Infrastructure introduced H.R. 5183, the Surface Transportation Extension Act of 2004. H.R. 5183 would extend our Nation's surface transportation programs for an additional 8 months, through May 31, 2005. While I fully support this extension, I am certainly not pleased that we need to consider such a measure once again. This is the fifth such extension we are considering since our highway and transit programs expired exactly 1 year ago.

Earlier this year, my colleagues in this body labored long and very hard to pass H.R. 3550. In writing TEA–LU, our committee considered the interests and needs of almost every single Member of this body.

□ 1115

We held dozens of hearings and we heard from many Members. We heard about their needs in their districts that they represent. Most importantly, we listened. We tried to accommodate the needs of every Member within the $275 billion bill. All in all, I think that the gentleman from Alaska (Chairman YOUNG), the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Wisconsin (Mr. PETRI) and myself on the Committee on Transportation and the Infrastructure did a good job. I believe we wrote a good bipartisan bill.

This body passed TEA–LU by a vote of 357–65. But now many, many months later, this measure is stalled in conference. Let me be clear, the leadership in this body has worked long and hard to negotiate an increase in the funding level from $275 billion to $299 billion. I believe that this is a good funding level. We would all like to have more, but democracy is compromise and we have all had to compromise.

My understanding is that most of my colleagues in this Chamber will accept the $299 billion funding for this bill. The leadership of this body should be commended for their efforts. Unfortunately, the conference is still stalled due to opposition from some Members of the other body.

We simply cannot continue to allow our highway and transit programs to limp along, extension after extension. States and localities are bearing the brunt of this inaction. State DOTs are flatlining their capital budgets. Critical transportation projects are not getting completed. Congestion problems are getting worse.

However, hope springs eternal. I, for one, believe we can get it done. Much like Ronald Wilson Reagan, I am an eternal optimist. I also have faith in our democratic process, and I have faith in our leadership on the committee and in this body. We still have an opportunity to finish negotiations on the highway conference, but to do so I would urge the other body to put aside partisan differences and think about the Nation, and we simply need to get this job done. But for now I urge my colleagues to support the extension.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Speaker, I yield 2 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding me this time. First of all, I want to say nothing but kudos to the leadership of this committee, the gentleman from Alaska (Mr. YOUNG), the gentleman from Minnesota (Mr. OBERSTAR), and the subcommittee leadership. This committee has worked together as well as any committee in Congress, particularly during these hard times, on a bill that was entirely responsive to other Members and entirely responsive to the needs of the country.

We can keep extending bills. The problem is we cannot extend the need. The need just gets worse. Many of us are close to desperation now. We have done our work. Our leadership has tried desperately to get this bill out, and we are left with what looks like the sixth extension. The highway bill is about extensions, not bills. This is the first time that I have ever seen a White House that did not want a highway bill, that wanted to go into an election without a highway bill.

Members recognize we had some concerns here and we tried to work them out. I was a conferee, and I understand what those concerns were. My problem with the extension is we are extending with funding from 6 years ago. The problem with that is the need has grown larger and people want this bill because they want whatever new amounts the committees and the Congress can give them.

I will be frank; most of the money that comes to the District of Columbia does not have anything to do with the 600,000 residents of the District of Columbia. My desperation comes because the highway money for my district could just as well be put in the homeland security budget because it is going to go for tunnels and bridges which will get people out of here in the case of an event, and for well-traveled Federal roads which are used by literally millions of commuters and visitors every year. So operating at levels from 6 years ago puts us in a real trick bag. I ask that we finally get this bill out before the end of the year.

Mr. LIPINSKI. Mr. Speaker, I yield 3½ minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, I would like to thank the gentleman from Illinois (Mr. LIPINSKI) for his tireless work because this will be his last action on this legislation. I would like to thank my colleagues on the committee and the chairman of the committee for their work. If we ran things, we would have already completed a much more robust investment in our roads, bridges, highways and mass transit here in the United States, putting millions of people to work and beginning to deal with the backlog of projects.

Unfortunately, we not only have to deal with the House, the other body, the Senate and the White House; in this case the White House has been the big problem. What we are doing here today will mean no increase. This will be the second year in a row with no increase in transportation infrastructure spending, even with the accelerating rate of deterioration of our bridges, even with growing congestion, no new starts. This does not get anywhere near what we would consider a good push toward dealing with those problems and putting people back to work. But the White House has chosen this extraordinarily low number, $256 billion. They would essentially underspend the highway trust fund. They collect gas tax from Americans and they would divert some of that money to other purposes by borrowing from it instead of fully investing it in roads, bridges, highways and mass transit. That means we are walking away from a lot of jobs. For every $1 billion we invest in transportation, the estimates are that we create 47,500 jobs, not just direct construction jobs which are good jobs which cannot be outsourced out of the United States, but also spill over into communities, small businesses, equipment providers, suppliers; all those people would benefit dramatically.

If we were to adopt the numbers proposed by the Senate at $318 billion, we would create nearly another 2 million jobs. We could use those jobs. It would also help the President, who is dragging his feet on this, to deliver on his promise of creating 2 million jobs, which he has not done yet and is unlikely to be able to accomplish before November except with the stroke of a pen and signing a bill and showing that he will create them in the future. But he is refusing to do that.

Unfortunately, there is hesitation with going forward with a more robust level and challenging the President. Someone spoke earlier about how the system works, and we have to deal with the Senate and White House, but we have the power to send something to the White House, allow him to veto it, and then override. The first vote I cast in the United States Congress was to override a much more popular President's veto of a highway bill, Ronald Reagan.

This is not only good for the transportation infrastructure, the economy, just-in-time delivery, small businesses, construction workers, it would be of tremendous benefit to the entire economy.

In closing, I want to thank the gentleman from Illinois (Mr. LIPINSKI). He has been a great mentor and friend to me. I will miss him. I am sure that we will take care of him when we do the highway bill next year. Although we do not know how much money we will have, but if we have lots of money, he will still do well, I am sure, and his State will do well.

Mr. LIPINSKI. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. CORRINE BROWN).

Ms. CORRINE BROWN of Florida. Mr. Speaker, first of all I thank the gentleman from Alaska (Mr. YOUNG) and the gentleman from Wisconsin (Mr. PETRI) and the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. LIPINSKI) for their hard work in pushing for the highest amount possible for our Nation's transportation system. I want to particularly thank the gentleman from Illinois (Mr. LIPINSKI) who I have enjoyed working with over the past 12 years. I thank the gentleman for his leadership.

American transportation infrastructure is in need of sufficient additional funding, particularly as we struggle to finance the security upgrades needed to protect our transportation system from terrorist attack. Transportation projects are also a natural economic development tool which this Nation sorely needs. Department of Transportation statistics show that every $1 billion invested in transportation infrastructure creates 42,000 jobs and $2.1 million in economic activity. It also saves the lives of 1,400 people. We cannot ignore those numbers. Transportation funding is a win/win for everyone involved. States get to improve their transportation infrastructure which creates economic development, puts people back to work, enhances safety and improves local communities.

Unfortunately, we were unable to add a rail title to the bill, but that does not mean that our rail infrastructure is taken care of. We have dangerously underfunded rail security. It is surprising after what happened in Madrid that rail is not a priority in this administration.

By delaying the passage of much-needed legislation, we are doing a disservice to the driving population and the Nation as a whole. The States who are battling red ink want to see a bill passed. Construction companies laying off employees want to see a bill passed, and citizens waiting in traffic jams want to see a bill passed. If this Congress fails to pass a bill funding transportation, shame on us.

Mr. LIPINSKI. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, the fact is that the importance of infrastructure investments to my home

State of New Jersey and our Nation cannot be overstated. More resources are desperately required to satisfy unmet needs, to improve livability, to alleviate congestion, to build safer roads, to upgrade and expand our mass transit system, to facilitate commerce, and create good-paying local construction jobs. Every $1 billion invested in Federal highway and transit spending means over 40,000 jobs are created or sustained.

□ 1130

Why do we only have an extension on the floor today rather than a good 6-year bill, a full 6-year bill that can benefit all of our States? The administration has been one of the biggest roadblocks in our path. For months, the administration would stonewall on supporting the funding necessary to get a right-sized bill. Their original proposal actively ignored new needs, choosing to keep the status quo. They did not want to make the tough choices in an election year to do what is right. The gentleman from Alaska (Mr. YOUNG), the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Illinois (Mr. LIPINSKI), the gentleman from Wisconsin (Mr. PETRI), et cetera know what is right. They put a lot of hours into this legislation. Both sides of the aisle.

The President has been deafening in his silence on the importance of a highway bill. They choose to hold the highway bill hostage as a credit to their ideology of fiscal responsibility. That is a laugh. It is a joke. Everybody knows it is. This ignores the reality that we are running up record deficits. It ignores the reality that the interest we are paying on the debt, $300 billion this year, is equal to the entire government outlay in 1974.

So it cannot really be an issue of fiscal responsibility. It is just politics, plain and simple. I support the extension because we need to keep the funding flowing to the States, or we will stop those projects right in their tracks. Chairman YOUNG and Ranking Member OBERSTAR understand that we need to keep our States working. They have understood it too well. Our committee to its credit always works in a bipartisan manner. At one point, 74 members of our committee supported a bill which actually provided the level of funding that our own Department of Transportation recommended. Imagine that, actually passing a bill based on need, not politics.

We need to keep up with aging roads and bridges and transit systems. Rather than sitting in traffic, we need to get parents home after work on time to take care of their families. But leadership has held down the investment and is holding back trust fund dollars which would alleviate congestion. Folks are paying gas taxes, user fees, and not spending that money as we should. 1998 was a long way off, the last time we passed this legislation. This is terrible. But we need to do this to keep the projects that are in the ground already working.

I welcome and congratulate the gentleman from Illinois (Mr. LIPINSKI) for the fantastic job that he has done, not on our side of the aisle but for the United States Congress, not only for the people in his district but for all Americans; and we thank him today.

Mr. LIPINSKI. I thank the gentleman from New Jersey very much.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the full committee.

(Mr. OBERSTAR asked and was given permission to revise and extend his remarks.)

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding me this time.

Here we are again doing an extension. In the famous words of President Reagan, there you go again, doing another extension. But, frankly, you might just call this a no-fault divorce. We tried. The other body tried. The two parties in the other body tried. They could not come to a meeting of the minds. They could not come to a meeting of the minds with the White House. The only body that has its act together is this body. The only group that has its act together is this Committee on Transportation and Infrastructure. We have worked shoulder to shoulder and, may I say, kneecap to kneecap across the table to fashion a bill that is good for America, to move transportation ahead, that would address congestion and safety and mobility of all things in America.

We introduced that bill a year ago at a time when gasoline prices were $1.34 a gallon. They are now consistently well over $2 a gallon all across the country and that 70-plus cents of increase in fuel price, about 60 percent of it, 70 percent of it, is going overseas to OPEC. We are not getting any transportation benefit of that increase in fuel price. Not a penny of that increase in fuel price is going to fill pot holes, build new bridges, improve safety on our highways, build more bicycle lanes.

Incidentally, I must say to the chairman of our committee and ranking member, I thank the ranking member of the subcommittee for managing this bill. It is his last hurrah, if you will, on the House floor in a management position. But I was out on my bicycle doing what I thought was going to be a 20-mile ride this morning, and I got the message that this bill was being called up. It seems the leadership over here just sort of all of a sudden decides in a big rush, this is the time to do this thing without any advance notice. That is not particularly useful. In fact, I was dodging pot holes, cursing the road conditions as most travelers are doing.

But we need to do this. I want to take this opportunity to express my great appreciation to the gentleman from Illinois for his 2-decade tenure in this House, for the partnership that we have had, on aviation, on surface transportation, on railroads, on water resource issues, everything that has affected this committee. He has really devoted his career to the work of this committee. The gentleman has absorbed the subject matter and made it a core of his service in the Congress. He has not only served his district well and his State well; he has served the Nation well. I salute the gentleman from Illinois on this, his last opportunity to manage a major transportation bill.

Perhaps there may be another opportunity. We never know. But it may be the last. One never knows what happens in this body. Winds blow. Conditions change. The barometer rises. The barometer falls. Something happens. It can all happen in the blink of an eye, and we could have a major bill back on the House floor yet before this Congress adjourns.

I regret, frankly, that we are here with an extension, that we are not here doing the TEA–LU bill that the chairman of the full committee and I and the gentleman from Wisconsin (Mr. PETRI) and the gentleman from Illinois (Mr. LIPINSKI) and our committee staff and members have worked so hard to fashion, because we know that at $375 billion, that is the level of investment America needs to move this country ahead, at a time when global mobility at home is a cornerstone of our global presence in international competition in the marketplace.

About 6 months ago, I visited China to speak at an aviation conference and traveled to the city of Laiwu, which is the home of a steel mill which is a part owner in an iron ore mine in my district. I traveled from Jinan 2 hours to Laiwu. Jinan is a city of 6 million people. Laiwu is a city of 1.2 million people. They have a six-lane divided, controlled-access superhighway connecting these two cities, the vanguard of the equivalent of our interstate highway system which China is planning to build in the next 15 years to invest well over $200 billion in improving their mobility, their ability to move goods to market and people to their destinations; and they are doing it with the savings of the Chinese people who have a savings rate of over 60 percent.

They are investing $200 billion in modernizing their ports, they are halfway through a $100 billion airport modernization plan, and we are sitting here, standing here, advancing the cause of transportation by taking the 6-year-old TEA–21 and moving it incrementally forward and saying, sorry, folks, this is the best we can do. That is not right. This committee knows what is right.

Members of this committee have worked hard. They understand transportation problems. They understand what America needs. They understand the needs of mobility. They understand the needs of safety and investment in America. Yet because of ideological

hard-and-fast positions by the White House and divisiveness over in the other body, we cannot move the agenda ahead.

I say, let us pass this bill. Let us inch forward. Let us come back after this Congress has concluded its business and into the next Congress and do the right thing for America. Make the right investments. Let us move America ahead in the way we know it needs to move, keep our mobility, keep our marketplace production and productivity and reduce the cost of moving people and goods in America.

Exactly 1 year ago today we ended an era: The era in which our Nation's transportation policy was governed by legislation establishing a multiyear plan with the funding needed to implement the plan.

During the past year, our national transportation policy has gone forward in fits and starts, by extensions of a month or two.

Just over a year ago, on September 24, 2003, when this House was considering the first surface transportation extension bill, I stated: "I am afraid . . . we will be back here on this floor once again pleading for another extension of time to keep transportation programs from once again expiring. . . . I do not want to be back on this floor saying again what I said 6 years ago, time is running out." What I predicted then has repeatedly proven correct—we have had 5 additional extensions since that day. And here we are today pleading once again for a temporary extension of authorization for highway construction, highway safety, and public transportation funding.

Our inability to enact legislation to reauthorization surface transportation programs is caused by an administration guided by ideology rather than good transportation policy and by the unwillingness of the Republican leadership in Congress to let the people's branch of government work its will.

Analysis by the U.S. Department of Transportation shows that we need to invest $375 billion to maintain and improve our aging infrastructure. On November 19, 2003, the Committee on Transportation and Infrastructure introduced H.R. 3550, authorizing that same amount—$375 billion for the highway, transit, and transportation safety programs for the next 6 years. The T&L Committee marked up that legislation and unanimously voted it favorably to the House, but the Republican leadership blocked its consideration because of objections from the administration to the funding level. But that funding level was derived from the administration's own analysis, and the bill, included proposals to fully fund the investments. Nevertheless, our committee was prevented from moving the bill through the legislative process.

That 1-year delay has been costly to our Nation. AASHTO, the American Association of State Highway and Transportation Officials, estimated when the first extension was about to expire early this year that failure to enact a long-term reauthorization would mean a $2.1 billion increase in project costs and a loss of more than 90,000 jobs that could have been created a long-term authorization bill.

Today, we continue our muddling through, debating on a measure that would temporarily extend funding authorization for another 8 months before the current extension expires at midnight. This is no way to do business, especially when we are dealing with costly, multiyear transportation projects that require long-term certainty in planning, development, and financing. I can only imagine what further damage we have now done, and at what new financial cost due to another year of inadequate funding levels.

The extension bill now before us provides some modest increase in the investment levels of a number of the highway and transit programs, other programs are less fortunate. Their funding is held constant at the FY 2003 levels. Moreover, the insistence on passing "clean" extension bills, Congress has not been able to modify or update current surface transportation programs and policies that are in need of such adjustment.

Overall, this bill would provide $24.5 billion in contract authority for the 8 months ending on May 31, 2005, for highway programs. This is based on $36.76 billion for the entire fiscal year 2005. Of these amounts, $21.3 billion for 8 months is guaranteed. For transit programs, this bill would provide $5.17 billion guaranteed funding for 8 months.

Despite the fact that the funding levels included in our original bill were derived from the Department of Transportation's highway and transit needs report, the administration has strongly opposed additional infrastructure investment. The President's budget to Congress flat-lined the highway and transit programs. The President's bill did not include one additional dollar for highway and transit investment, nor would it produce one additional job in the transportation construction sector, over the next 6 years.

But what's worse is the mess we have created in the last year. The lack of vision, the lack of a clear plan, the continual struggle to give States scraps from the table. We should do better.

Mr. LIPINSKI. Mr. Speaker, I thank the gentleman from Minnesota for those words, particularly those kind words about myself.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, allow me to thank the great leadership we have on this committee and the diligence with which they have led us and with which we have worked. The gentleman from Alaska (Mr. YOUNG), the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Wisconsin (Mr. PETRI), and the gentleman from Illinois (Mr. LIPINSKI), the members of the committee respect and honor their leadership. It makes for a very good committee.

Three in four Americans now believe that the Nation is facing a transportation capacity crisis. Our infrastructure desperately needs attention. There are 17 bridges in my district alone that are currently in critical condition. Yet in spite of this, we stand poised to shortchange the American people with another short-term highway extension.

If you poll any local, State, or transportation industry representatives, they will tell you that the transportation needs of this country will only be met by passing a fully funded 6-year bill, $376 billion, but no less than $319 billion. We did not pull these numbers out of the air. They are numbers from the administration's own Department of Transportation's research and assessment. Our leaders in this committee traveled this country looking at conditions to verify what we have been told by the administration.

It is ironic that the current argument is over funding levels. Yet the longer we delay in enacting a fully funded transportation bill, the costs associated with addressing our Nation's infrastructure will continue to rise. So just neglecting going through and doing what is right, we are going to cause ourselves to spend more money.

If the Republican administration can find time to place such a great emphasis on the reconstruction of other countries, surely priority should be given to our Nation's crumbling infrastructure and bringing the needed jobs. Our constituents are counting on us to do the right thing and we really should not let them down. We have cars collapsing on bridges. The highways are so bad until accidents are being caused. It is time for us to stand up and pass this bill and do something for our Nation and bring about good jobs.

Mr. LIPINSKI. Mr. Speaker, I yield myself the balance of my time.

First of all, I want to once again say that I appreciate the kind words the gentleman from Minnesota had to say about me. I would like to say that I learned a great deal from him over the course of my time here in the House of Representatives. Oftentimes I refer to him as Mr. Transportation, and I sincerely mean that. He probably knows more about transportation than anyone I have met in the 22 years I have been in the House of Representatives and he has certainly been enormously helpful to me in my career here. I also want to thank Chairman YOUNG and Chairman PETRI for including me as much as they have in the deliberations on this bill, through the subcommittee, the full committee, the House floor, and in the conference committee. I have really felt like a partner in this legislation. If I had been in the majority, I do not think that I could have been treated any better than I was by Chairman YOUNG and Chairman PETRI, and I sincerely appreciate that.

It has been very enjoyable working on this bill. I have been very pleased, as I say, with the participation that we have been given by the majority. There has been a lot of talk here today about this bill not becoming law and us not getting out of conference. I simply want to say, and I will preface this for the benefit of the few people who do not know, the Speaker of the House and I have a very good relationship and we have had for a long time. So I say that because I want to say that no one has worked harder to get this bill passed into law than DENNY HASTERT. I know that Chairman YOUNG has had many, many meetings with him.

□ 1145

I know that the Speaker has gone to the White House on countless occasions. I know he has talked to the Senators, the Senate conference committee members. I know that the gentleman from Alaska (Chairman YOUNG); the gentleman from Minnesota (Mr. OBERSTAR), ranking member; the gentleman from Wisconsin (Mr. PETRI) have worked very hard on this bill. But I do not think they worked any harder on getting this bill passed than the gentleman from Illinois (Speaker HASTERT) has, and I want to make sure everyone understands that in this body. Yes, we have problems. Yes, the Republicans control the White House, the Senate, and the House. But as I know from Illinois, where the Democrats control the governorship, the Senate, and the House, sometimes when one party controls everything, they do not quite get along as well as they would have if they were in the minority. So I appreciate that. I understand that.

I would also like to say in conclusion that there have been people who have helped our staff and helped the Democratic side considerably. That is, people from the House Legislative Counsel, Dave, Curt, and Rosemary; from DOT, Megan, Brigham, Jim, Gary; from NHTSA, Scott, Brian, Marlene; from FTA, William, Kris, Rita; from FHWA, Ross, Sue, Carolyn, and Susan. And certainly, David and Ward on our staff here have put an awful lot of work into this bill.

I am still hopeful that when we get back from our recess during the course of the election period of time that we will be able to pass this bill so that I will still be here in the House of Representatives when this bill becomes law. I am for the extension. Let us move on it. Let us get back to work trying to be bring this bill to conference.

Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

In closing, this is a time that is always difficult for someone who has served with something for so long, but I will tell the gentleman from Illinois (Mr. LIPINSKI) we are going to miss him. We are going to probably see him. But as Members leave this body that have contributed to not only their districts but the Nation, it is a loss. We know that. I know he knows that. But I also respect his desire to go and do bigger and greater things. But I look forward to seeing him back on the Hill during this period of time in the near future so that we can communicate and work together on a cause that he has great feeling for, and that is transportation. And he can be assured that I will always be there to hear his wisdom, and he can be sure that I and the gentleman from Minnesota (Mr. OBERSTAR) are going to accomplish the goals along with our subcommittee chairman on this transportation bill, I hope in the near future. If we cannot, it will be, not in the far future, but in the close future. So, again, I wish him Godspeed and be well on his travels. We will miss him.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in support of the Surface Transportation Extension Act, which extends funding for vital highway and transit programs for eight months, through May 31, 2005. I want to thank Chairman YOUNG and Ranking Member OBERSTAR for working to pass an extension that is fair and equitable. They have had to deal with the truly difficult task of coming to agreement on a multi-year transportation agreement and I commend them on the job they have done so far.

I am pleased to hear that this current extension has been made much more fair and equitable to all states through the use of current gas tax contribution data instead of the proposed use of outdated data. The use of outdated data would have meant that a number of states led by Texas would not have received the proper amount of funding due to them. This extension is now in line with the funding formula structure of the Federal-Aid Highway program as stipulated by TEA 21's Minimum Guarantee program that provides all states at least a 90.5 percent rate of return from each state's federal gas tax contributions through the core highway formula programs and High Priority Projects.

Had the outdated gas tax contribution data been used Texas would have stood to lose $115.8 million in contract authority. Clearly, this simple issue of using current data could have been devastating to transportation projects in the state of Texas and would have been inequitable considering Texas's increased contribution to the federal Highway Trust Fund. Again, I commend Chairman YOUNG and Ranking Member OBERSTAR for having the foresight to correct this inequity and ensure that states that contribute to the federal Highway Trust Fund are given a proper rate of return.

This extension provides an advance of $21.3 billion in contract authority for federal-aid highway programs for the eight-month period. It also sets an obligation limit of 8/12 of the obligation limit in the FY 2005 Transportation-Treasury appropriations measure, which should provide about $24.5 billion over the eight-month period. This money is necessary as we continue vital highway construction projects that will benefit the American people.

This extension also suspends the Harry Byrd Rule, which prevents highway spending from exceeding gas-tax revenues. This year, the estimated receipts for the trust fund fell, which may have triggered a reduction in the apportionments to the states. By suspending the Harry Byrd Rule, the extension prevents states from receiving reduced allocations at a time when most states are in dire need of additional transportation funding.

As a body we must insist on a proper agreement for a long term transportation agreement because it is of such vital interest to our Nation. Investments in our Nation's surface transportation infrastructure create millions of family-wage jobs and billions of dollars of economic activity. Each $1 billion of Federal funds creates 47,500 jobs and $6.1 billion in economic activity. In addition, this investment in transportation infrastructure will increase business productivity by reducing the costs of producing goods in virtually all industrial sectors of the economy. Increased productivity results in increased demand for labor, capital, and raw materials and generally leads to lower product prices and increased sales.

Because so much is literally riding on a transportation agreement for the 21st Century we must insist on a balanced surface transportation program that serves the mobility needs of our country in a manner consistent with key Democratic principles, including: economic growth, intermodalism, security, safety, continuity, equal opportunity, protecting our human and natural environment, rebuilding our transit and highway systems, encouraging alternative transportation, encouraging smart growth, encouraging advanced technology solutions, and protecting the rights of workers in transportation industries. While I am satisfied with this current extension I look forward to the day when we can pass a comprehensive and equitable transportation agreement that serves the 21st Century transportation needs of the American people.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MILLER of Florida). All time for debate has expired.

Pursuant to House Resolution 811, the bill is considered read for the amendment, and the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. DEFAZIO

Mr. DEFAZIO. Mr. Speaker, I offer motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. DEFAZIO. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DEFAZIO moves to recommit the bill H.R. 5183 to the Committee on Transportation and Infrastructure with instructions to report the same back to the House promptly with an amendment increasing each number in the bill by 12.8485 percent.

Mr. DEFAZIO (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes in support to his motion.

Mr. DEFAZIO. Mr. Speaker, this is a straightforward motion within the parliamentary constraints of the House. Some might say, because we would ask the bill to be sent back promptly, that we are dooming it to death.

We have been waiting 11 months for a highway bill, 11 months since the last one expired. Give us 2 hours, and we will give them a lot more investment

and a lot more jobs. We can deliver this bill back within 2 hours. The House could pass a bill at the Senate levels this evening.

All across America that would make a big difference. Across the entire country, that would mean that we would have, if we adopted that level ultimately for 6 years, an increase of $37 billion in spending. That is 1.7 million jobs; 1.7 million jobs could be created. We could begin to deal with the 161,000 bridges in this country that are structurally deficient, one in four. My own little State has a $4.7 billion bridge problem.

We are trying to do our own part, as the chairman asked. We have raised registration and other fees. But we need a little bit of help because this is Interstate 5, the federal highway that goes between Canada, Mexico and includes Oregon, Washington, and California. There is some federal obligation, I believe, to help maintain that highway.

This has been a maddening process for those of us who care about transportation, who care about our failing bridges and the potholes and our congestion and the lack of new starts and mass transit, all those things. If we had our way, we would have significantly more investment, according to a unanimous vote of the committee on which I serve, bipartisan. We voted for the number which has been outlined by the President's own Department of Transportation, $375 billion over 6 years. And even that would not take care of all the problems, but it would sure be a lot more to address them. But the President has taken a hard line at $259 billion, far below the number passed by the House, way below the number passed by the Senate, and about one-third below the number recommended by his own experts. This is inexplicable. This is investment. This is paid for out of gas taxes, which each and every American pays every time they tank up their car. We owe them an obligation to make this investment, not to stick with the levels of that are now 6 years out of date under the old legislation but to look at something that will spend more, begin to deal more with the backlog, put more people to work. We could help the President deliver on his own promise. This would create 1.7 million jobs. The President could sign a bill which we could have back and have ready for consideration by five o'clock tonight. He could sign it tomorrow in the Rose Garden, and he could refute the claims of his opponent that he had lost 1.7 million jobs because he would just have signed a bill to create 1.7 million jobs.

For the life of me, I do not understand the reluctance at the White House to invest the people's tax dollars paid for every time they tank up their car in investment in the people's infrastructure, the infrastructure that will benefit not only individuals but businesses all across America who depend upon just-in-time delivery. Just-in-time delivery is pretty hard when they have got to detour a truck over the Cascade Mountains in Oregon, down the far side and then back down again to I–5 because of failed bridges. And that is unique. That kind of thing takes place all across America. Trucks are detouring hundreds of miles out of their way, wasting fuel, wasting time, making us less efficient because the Federal Government says we do not have the money to catch up with this backlog on bridges.

Well, we do have the money. We are taxing the people. We should adopt a more robust level. We should deal with some of the problems and the disparities among the States, the whole issue that States give a whole bunch more in than they get back. But we cannot do that unless we have higher levels of funding. It is impossible.

And that is what this amendment does, very simply. It would bring the bill back later this evening, spending at the levels of the Senate bill, which would put over 6 years, if finally adopted, 1.7 million people to work, 20,000 people in my State, and begin to defray that backlog.

I would hope that we will pass this motion unanimously and make the investment that we need. And I think the President will sign it. I doubt very much he will see fit to veto the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 1½ minutes to the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Speaker, I thank the chairman for yielding me this time.

I would hope that we not pass this motion immediately. I understand the point that is being made, and it is perfectly reasonable. But the fact is that we are currently operating under a continuing resolution. It expires at midnight tonight, and if we do not get this measure through the Senate and to the President, who is down in Florida on other business, before that time, some of the money that would otherwise be spent on transportation, some of the jobs that would otherwise exist in the transportation sector will be lost.

And the motion is very short. It simply changes the numbers in the bill by 12 and a fraction percent. But, in fact, trying to figure out how that would work in practice and the consequences of it, it would be anything but short. This would endanger the ability to continue our transportation programs.

Mr. DEFAZIO. Mr. Speaker, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman for yielding to me.

My staff says that they can do the computer runs and have the numbers within 2 hours, which would give us ample time to get the bill faxed before the President for signature before midnight tonight.

Mr. PETRI. Mr. Speaker, reclaiming my time, I am not talking about the mechanics of running the numbers. I am talking about the mechanics of operating the political machinery in order to get something that, in fact, would be passed by the Senate and signed by the President.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in opposition to the motion to recommit.

I know my good friend from Oregon is a good soldier, and I understand what he is trying to do, but I hope no one takes it too seriously because this would kill this legislation that we have today for an extension of our highway program which would cost us about 150,000 immediate jobs, disrupt all State programs, all projects in districts and, in fact, create chaos. And there is a time problem because the reality is that this has to be signed by the President tonight or it does come to a halt. And so what we have to do now is pass this legislation, vote against this motion to recommit, pass this legislation and send it over to the Senate. And I am not speaking too broadly about the Senate because we do not control it, and I know I am not supposed to mention it. But the other body must also act. And then it has to get on an airplane and be flown to Florida because there is the big debate tonight. And he has to sign it. I am sure it is not a big deal with the President, but it is necessary for highway projects.

And just tongue in cheek, to the gentleman from Oregon, the way his motion to recommit is that each number in the bill would have to be raised 12.84, 12.85 percent, and that means that H.R. 5183 would no longer be H.R. 5183, it would be, I guess, 52.6 or something, and all the numbers in the bill, instead of section 22, it would have to be section 22.8 and on down the line.

I understand the reasoning why, but I do urge my colleagues to think very seriously about it. Let us keep the course. Vote against the motion to recommit and then pass this legislation so we can continue our transportation needs in this country, not to the degree we want but what is necessary at this time.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. DEFAZIO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clauses 8 and 9 of rule XX, this 15-minute vote on the motion to recommit will be followed by 5-minute votes on passage of H.R. 5183, if ordered; the motion to suspend the rules on H.R. 5149; and the motion to suspend the rules on H.R. 4231.

The vote was taken by electronic device, and there were—yeas 199, nays 218, not voting 15, as follows:

[Roll No. 480]

YEAS—199

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Herseth
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—218

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—15

Boehlert
Brown, Corrine
Cannon
Davis (IL)
Diaz-Balart, L.
Diaz-Balart, M.
Harman
Harris
Hastings (FL)
Meek (FL)
Meeks (NY)
Nethercutt
Ros-Lehtinen
Tauzin
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MILLER of Florida) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1223

Mr. MORAN of Virginia changed his vote from ''nay'' to ''yea.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. DEFAZIO. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 409, noes 8, not voting 15, as follows:

[Roll No. 481]

AYES—409

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)

Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—8

Flake
Franks (AZ)
Hensarling
Jones (NC)
Oxley
Paul
Stearns
Toomey

NOT VOTING—15

Boehlert
Brown, Corrine
Cannon
Davis (IL)
Diaz-Balart, L.
Diaz-Balart, M.
Harman
Harris
Hastings (FL)
Meek (FL)
Meeks (NY)
Nethercutt
Ros-Lehtinen
Saxton
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1230

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5183.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Alaska?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Without objection, 5-minute voting will resume.

There was no objection.

WELFARE REFORM EXTENSION ACT, PART VIII

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5149.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HERGER) that the House suspend the rules and pass the bill, H.R. 5149, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 416, nays 0, not voting 16, as follows:

[Roll No. 482]

YEAS—416

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—16

Boehlert
Brady (TX)
Brown, Corrine
Cannon
Davis (IL)
Diaz-Balart, L.
Diaz-Balart, M.
Gephardt
Harman
Harris
Hastings (FL)
Meek (FL)
Meeks (NY)
Nethercutt
Ros-Lehtinen
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1239

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DEPARTMENT OF VETERANS AFFAIRS NURSE RECRUITMENT AND RETENTION ACT OF 2004

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4231, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by

the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 4231, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 411, nays 1, not voting 20, as follows:

[Roll No. 483]

YEAS—411

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Smith (MI)

NOT VOTING—20

Allen
Boehlert
Brown, Corrine
Cannon
Davis (IL)
Diaz-Balart, L.
Diaz-Balart, M.
Eshoo
Gephardt
Harman
Harris
Hastings (FL)
Meek (FL)
Meeks (NY)
Moore
Nethercutt
Pence
Ros-Lehtinen
Tauzin
Turner (TX)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1247

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. HARRIS. Mr. Speaker, due to unavoidable circumstances this morning, I was unable to participate in the first series of votes in the House of Representatives. Had I been present, the following affirms my voting intent: On rollcall vote No. 480: ''No.'' On rollcall vote No. 481: ''Aye.'' On rollcall vote No. 482: ''Aye.'' On rollcall vote No. 483: ''Aye.''

□ 1245

PROVIDING FOR CONSIDERATION OF H.J. Res. 106, MARRIAGE PROTECTION AMENDMENT

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 801 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 801

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 106) proposing an amendment to the Constitution of the United States relating to marriage. The joint resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except: (1) two hours and 30 minutes of debate on the joint resolution equally divided and controlled by the Majority Leader and the Minority Leader or their designees; and (2) one motion to recommit.

SEC. 2. During consideration of H.J. Res. 106 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the joint resolution to a time designated by the Speaker.

The SPEAKER pro tempore (Mr. SIMPSON). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, on Tuesday, the Committee on Rules met and granted a closed rule for H.R. 106, the marriage protection amendment. The rule provides 2 hours and 30 minutes of debate, equally divided and controlled by the majority leader and the minority leader or their designees.

H.J. Res. 106 proposes an amendment to the Constitution of the United States relating to marriage. The amendment states that ''Marriage in the United States shall consist solely of the union of a man and a woman. Neither this constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than a man and a woman.''

The constitutional amendment process is the most democratic process in our Federal system, and it requires approval from two-thirds of each House of Congress and three-quarters of the States by votes of their State legislators.

This bill has come up because same-sex marriage advocates have been using the courts and even local officials who have intentionally violated the law to circumvent the democratic process. Passing a constitutional amendment will place the debate where it belongs, with the American people.

Forty-four States have already enacted laws that provide that marriage

shall consist only of the union of a man and a woman. Those forty-four States represent 88 percent of all the States and 86 percent of the population.

As President Bush said in his State of the Union address, if judges insist on forcing their arbitrary will upon the people, the only alternative left to the people would be the constitutional process. To that end, I urge my colleagues to support the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I thank the gentlewoman from North Carolina (Mrs. MYRICK) for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, this is another sad day for the House of Representatives and for the people that we serve. Once again, some in the leadership of this House, including and especially the majority leader, have brought a divisive, unnecessary, and just plain meanspirited bill to the floor in order to advance their own partisan political interests.

Once again, they have decided to ignore unemployment, ignore the health care crisis, ignore record deficits, ignore national security, in short to ignore the real concerns of the American people. Why?

You can find the answer just by looking at the calendar. We are 5 weeks from an election and there are some, not all, but some Members on the other side of the aisle who have chosen to put aside the important work we need to do.

By today, the 13 appropriation bills should have been signed into law. So far, only one has the President's signature. Where is the Homeland Security appropriation bill? Can anyone really say with a straight face that a constitutional amendment beating up on gay people is more important than funding our Homeland Security needs? How about the recommendations of the bipartisan 9/11 Commission, or the transportation bill? How about funding for schools and hospitals and veterans? They are nowhere to be found. Instead, we get legislative gay bashing. Another sad day.

Today, we are being asked to consider H.J. Res. 106, which would amend the United States Constitution to ban gay marriage, to ban civil unions, and to abolish the ability of States to interpret their own State constitutions. So this is no small matter.

It is important to note at the outset that the Constitution clearly prohibits the government from interfering with the marriages performed by religious institutions. Our Founding Fathers were very clear about this. The government cannot force any church or synagogue or mosque to perform a religious marriage. That will not change, no matter what happens today.

Now, there are several fundamental problems with this amendment. First, it has long been the tradition in this country that States, not the Federal Government, have the right to regulate marriage and other issues of family law. And States are already addressing same-sex marriage. When the Hawaii Supreme Court held that denying same-sex couples the right to marriage violated the Hawaii constitution, the voters of Hawaii passed a constitutional amendment allowing the State legislature to limit marriage to different-sex couples.

The people of Alaska amended their constitution to define marriage as a union between one man and one woman after an Alaskan trial court held denying the right of marriage to same-sex couples violated the Alaskan constitution.

States all across the country are moving in similar directions, but that is not good enough for the supporters of this amendment. They believe that the only way to address this issue is to add discrimination to the United States Constitution.

Of course, the irony in all of this is that the Defense of Marriage Act, or DOMA, was signed by President Clinton and is already the law of the land. Under DOMA, States can already refuse to recognize marriages from States with different policies.

I guess that fact does not make for very good press releases or 30-second political attack ads.

Second, if this amendment becomes the law of the land, civil union and domestic partnership laws all across the country will be thrown out the window. Things like hospital visitation rights, family medical leave, and inheritance rights can be taken away.

According to the Coalition Against Discrimination in the Constitution, an organization of civil-rights groups, labor unions, and religious organizations, this constitutional amendment would likely prevent the civil unions enacted by the States of Vermont and California.

Now, we will hear a lot of talk from people on the other side of the debate today about Massachusetts, so let me talk about my home State. Our State Supreme Court decided in favor of same-sex marriage last year. And right now there is a legislative process underway in which the people of Massachusetts will have the opportunity to change our own State constitution to prohibit same-sex marriage, if they so choose.

The interesting thing is that I doubt that it will succeed in Massachusetts. Starting on May 17, 2004, gay men and women in Massachusetts got married, and guess what? The world kept spinning on its axis, the sun came up the next day, people went to work, sent their kids to school and cheered for the Red Sox. So we are doing just fine in Massachusetts, thank you very much. And we certainly do not need anyone from Colorado or Georgia or Texas telling us how to handle the marriage issue in our own State.

The impeccably conservative Vice President of the United States, DICK CHENEY, said it well in 2000, and I have his words right here, and I quote, ''The fact of the matter is that we live in a free society, and freedom means freedom for everybody. And I think that means that people should be free to enter into any kind of relationship they want to enter into. It's really no one else's business in terms of trying to regulate or prohibit behaviors in that regard. I think different States are likely to come to different conclusions, and that's appropriate. I don't think there should necessarily be a Federal policy in that area.''

And those are the words of the Vice President of the United States, DICK CHENEY. The Vice President speaks from very personal experience. He loves someone who is gay, not because she chose to be gay but because that is just who she is.

Mr. Speaker, if this amendment passes, discrimination against a group of people will be written into the Constitution of the United States. If this amendment passes, we will be taking a step backward in our march toward equal protection under the law. All of us take an oath to uphold and defend the Constitution not to use it as a political weapon.

There are some who say that this is about protecting future generations, our kids. Well, let me tell you in this chamber today, I have two beautiful children, a 6-year-old son and a 3-year-old daughter, who I love more than anything, and I do not want them to grow up in a country where an entire group of people is treated as second class citizens.

To those, like the gentlewoman from Colorado (Ms. MUSGRAVE), who say this is about protecting marriage, let me ask, just whose marriage are you trying to protect? I am happily married, and I do not need Members of Congress to protect my marriage. Please do not use my marriage to promote homophobia and discrimination.

Mr. Speaker, this amendment is wrong. And to those of my colleagues who support this amendment today, let me state clearly that you are on the wrong side of history. It is wrong to tarnish our most sacred document, our Constitution, with discrimination. It is wrong to take a beautiful institution like marriage and use it as an instrument of division and hostility.

Mr. Speaker, I urge my colleagues to do the right thing. Help secure the blessings of liberty for all Americans. Vote ''no'' on this amendment.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield myself such time as I may consume to say that the gentleman from Massachusetts is aware that the Homeland Security bill, a very complicated bill, is going through, I believe, five committees, and it is in that committee process this week and we are going to have it on the floor next week. So it is not that the Homeland Security bill is not going to be dealt with.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. DELAY), the majority leader.

Mr. DELAY. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I rise in support of the rule before us and in support of the marriage protection amendment itself.

I am well aware that this is not a day many of us in this House relish. Many of us who support the marriage protection amendment are saddened that the need for this amendment exists at all. The definition of marriage seems to us, and the vast majority of the American people, as a matter of common sense and social reality. And many who oppose the amendment, most I would say, see the movement to protect marriage as mean spirited and unnecessary. In either case, most of us in this House would prefer not to have this debate. We would prefer to live in a society in which such debates were unnecessary, but, unfortunately, we do not.

The question of the future of marriage in America has been forced upon us by activist judges trying to legislate from the bench and forced upon us in such a way that the only remaining answer is to amend the Constitution of the United States. These are the facts, Mr. Speaker. The majority of the American people want to protect traditional marriage for reasons ranging from the political to the religious to the practical. But a minority of our citizens, a vocal and sincere minority, wish to alter the definition of marriage to include relationships outside the union of one man and one woman.

In response to this minority opinion, the American people asserted their consensus in 1996 when a Republican Congress and a Democrat President worked together to enact the Defense of Marriage Act. Its support was and remains bipartisan and overwhelming across the country.

DOMA says two things: First, that for the purposes of Federal law, the term marriage describes a union between one man and one woman. And, second, it says that no State, including Massachusetts, can force their will on the rest of us. And no State under its own laws can be required to recognize homosexual unions licensed in other States.

□ 1300

That is the law as it currently stands: fair, straightforward, and representative of an overwhelming consensus among the American people.

One would think this would be the end of the story, but it is not. DOMA is under an incessant and coordinated constitutional attack in the Federal courts. Despite DOMA's obvious constitutionality, those activist judges, who feel a greater responsibility to their own political ideology than the Constitution, seem not to care. Indeed, inventing rights out of whole cloth, in direct violation of the will of the people, too often seems to be the coin of the realm on the Federal bench these days.

In such an environment, it is no surprise to me that legal scholars on both sides of this issue, from Lawrence Tribe to Robert Bork, all but concede DOMA will eventually be struck down because it contradicts the tortured jurisprudence of activist judges.

Mr. Speaker, in other words, the definition of marriage will be a matter of constitutional law one day very soon. The question before us is whether that definition will be radical and arbitrary, or based on the experience of human civilization dating back to the origin of our species; whether that definition will be written by individual judges imposing their political biases on the Nation or written by the people of the United States through their elected Representatives in Congress and State legislatures.

DOMA passed with broad bipartisan support. To date, 44 States have defined marriage as the union between a man and a woman. Consensus exists today. And yet the runaway courts keep coming, bent on replacing Congress as the legislative authority of the United States. Let me be plain: The status quo is not an option. Avoiding this issue is not an option, not anymore, not since the Supreme Judicial Court of Massachusetts invented a right to homosexual marriage out of thin air, and not since a State court judge invented a similar right in Washington State, not since 11 States face court challenges to their marriage laws. This issue is not going away.

Those who know me know I am not a fan of constitutional amendments in general. And at first I resisted this amendment in particular. But the fact can no longer be denied. If marriage is to be protected in this country, it can only be protected by a constitutional amendment. The timing, substance and necessity of the marriage protection amendment have been forced by the courts and their refusal to be bound by the clear and absolute limits of their constitutional authority to interpret the law. This amendment is the only way marriage will be protected.

Now I know it is a difficult issue, and I know it is an emotional issue for people across the political spectrum and across this country, but it is an issue that has been forced. The people must be heard. Congress must assume its responsibility and must respond. This debate today will begin with that response, and, I hope, do so as it should, with civility, respect and sensitivity to all points of view.

Mr. MCGOVERN. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, to begin as the majority leader leaves, I must say when he says that the timing of this, 1 month before an election when the issue has been pending all year, when he says the timing was forced upon him and is not effected by political considerations, he violates what I would recommend to the gentleman is an important rule of political debate: No matter how advantageous one thinks it is, try hard to believe something no one believes; it does not really help your cause.

Beyond that, we have the most seriously misdescribed constitutional amendment I have ever seen. Actually if the Republicans go forward with their proposal, having created the largest deficits in our history, to require a balanced budget some time in the far distant future, that may be an even greater one at variance with reality. But here is the problem: They describe an amendment very different than the one they bring forward.

We have heard the gentlewoman from North Carolina and the gentleman from Texas say this is aimed at preventing judges from forcing one State to do what another State does. It does far more than that. At its core what it does is say that no State, by whatever process it chooses, may find that two women being willing to commit themselves to each other legally as well as emotionally is a good thing and not a bad thing, because that is the core of the issue.

In the State of Massachusetts, it is true we began with a court decision. Since then, it has been debated in our legislature. The legislature of Massachusetts very narrowly approved an amendment that would have said no to same-sex marriages but would have mandated full civil unions, which may also be thrown out by this amendment. That amendment will now be debated next year.

An election is going on in Massachusetts today in which how people voted on this is a major issue. We just had a change in the leadership of the Massachusetts House. A speaker who opposed same-sex marriage has been replaced by a speaker elected by the House of Representatives of Massachusetts, in turn elected by the people, who support same-sex marriage.

I think the question is very much in doubt, but the point is undeniable; the political process in Massachusetts, the democratic process in Massachusetts, is now deciding whether or not to allow same-sex marriage.

Mr. Speaker, the other side comes with an amendment that would cancel any decision made on this that they do not like by the people of Massachusetts. This is not an amendment that says one State cannot do something to another State. There would be an amendment possible. I would not be for it, but if that is really what is meant, then we would have an amendment that took DOMA and made it a constitutional principle. Such an amendment would be possible. I think it would be a mistake. I do not think it would be a good idea to freeze that, because then we would have some real difficulties, but it would be at least in accordance with what the other side is saying because this amendment does far more than has been described.

It has been a rule that I have found when people in political debate will not

be completely open about what they are trying to do, it is because they really know it is not defensible. Why do you not acknowledge that this amendment would cancel a democratic decision by the people of Massachusetts? Indeed, if the legislature decides to get rid of this, there will be a referendum. If the legislature does not decide to get rid of it, then a fairly small number of people can force a referendum and we will have a referendum, very likely, in 2008.

We will have had by that time the benefit of 4 years in which same-sex marriages happened. I understand why the opponents of same-sex marriage are so upset. They have made a number of predictions about what will come after same-sex marriage, none of which will be proven true, so they are desperately trying to cut this off before it happens. We have already had nearly 5 months of same-sex marriage. None of their predictions were proven true, as none of their predictions were proven true when they talked about the chaos in Vermont.

But let us understand what the House is being asked to do. If the concern was to say judges could not decide this, if the concern was to say full faith and credit does not apply, there would be amendments that could be narrowly drafted to deal with that, although I would not support them. But that is not what is here. This amendment says no State, Vermont, Massachusetts, by whatever process, by referendum, by vote of the legislature, by whatever process, can decide that it would like to have same-sex marriage for its own citizens.

I will say that on behalf of the citizens of Massachusetts, who do not share the distaste for love that is expressed in a way in which you do not disapprove that Members of the majority have, please do not impose your views on the people of Massachusetts. If your concern is genuinely to prevent one State from forcing another, deal with that. But this is an undemocratic effort to say no State may differ in this intimate matter of public policy with your views.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. PENCE).

(Mr. PENCE asked and was given permission to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, I rise in strong support of the rule and of the underlying Marriage Protection Act, and consider this to be an extremely important day in the life of this institution and the life of this Nation.

Let me say to the gentleman from Massachusetts (Mr. FRANK) who just spoke, who I respect greatly as the national leader that he is, although I am a conservative and although I support a constitutional amendment to define marriage in the terms which the overwhelming majority of the American people wish to continue to define it, I have no distaste for love; and neither is it my desire to impose views or attack any individual or anyone in a relationship in America.

I am from south of Highway 40 in Indiana, but I do know the difference between defending and attacking. And the truth is, as legal scholars and millions of Americans know, the institution of marriage is under attack by activist judges; and it brings us, as the majority leader said so eloquently, to this place, by necessity, where a constitutional amendment is the only way we can express the will of 3 out of 4 or more Americans who desire to continue to have this fundamental institution of marriage defined as it has been throughout the millennia.

Activist judges have had successes since 1999 when they convinced the Vermont Supreme Court that they should order the State legislature to legalize same-sex marriage. A second major victory came when they convinced the Massachusetts Supreme Judicial Court to force that State to give full marriage licenses.

The activists have literally plotted a State-by-State strategy to increase the number of judicial decisions mandating same-sex marriage, and the U.S. Supreme Court provided potent ammunition to activists when they decided the Lawrence v. Texas case in June of last year. In that case dealing with same-sex sodomy, the court strongly signaled that a right to same-sex marriage could be found in the Constitution. Scholars ranging from Supreme Court Justice Scalia all the way to Harvard liberal scholar and author Lawrence Tribe agree that the Lawrence v. Texas case paves the way for this Supreme Court in this Nation's Capital to recognize same-sex marriage. Same-sex couples are now challenging marriage laws in States across the Union, including my own little State of Indiana.

So we come here not to attack but, rather, in a spirit of civility to defend an institution that is cherished and is so essential to the American people in the life of our Nation.

In closing, we are here today because marriage matters; because, like millions of Americans, I believe it was ordained by God, instituted in the law, it is the glue of the American people, and the safest harbor to raise children. Let us adopt the rule, defend the institution of marriage, and ensure that our society's most cherished social institution is defined by we the people and not unelected judges.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I yield to the next speaker, I would like to point out one thing which I find particularly interesting, and that is at the recent Republican National Convention in New York City, all of the featured primetime speakers that the party decided to put on display for us, Rudy Giuliani and George Pataki and Arnold Schwarzenegger, all oppose what is trying to be done today. They all oppose this constitutional amendment.

Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, today we stand on the floor of the people's body, the United States House of Representatives, with the intention of writing discrimination into the U.S. Constitution for the first time in our Nation's history.

It is not so troubling that this is politically driven, what is so troubling is the mean-spirited nature of this legislation. The marriage protection amendment; what a cruel joke. It does not do anything to protect marriage in this country. It does not suggest to individuals the importance of communication in a successful relationship. It does not reduce promiscuity or stop unwanted pregnancies. It does not strengthen people's resolve to work through the difficulties that always come within a marriage. It does not do any of that.

□ 1315

What it does do is to single out one group of people for discrimination, declaring them forever unworthy of the same legal protection that all other Americans enjoy. Further, this amendment would usurp the will of the people in States that have used their traditional States rights authority to define civil marriage and civil union laws. State laws passed by elected representatives in places like Vermont will be wiped clean off the books. In situations where a loved one is sick in the hospital, same-sex couples will once again lose the right to sit bedside and help nurse their partner back to health. These couples' ability to plan their financial future together and to share health care benefits will also be forever taken away.

Mr. Speaker, we already have sufficient legislation to allow individual States the ability to retain and structure marriage laws the way they see fit. I opposed and continue to oppose the Defense of Marriage Act which passed the House back in 1996, but this law is still fully functional and in effect. No State in the Union has to accept any other State's laws with respect to same-sex marriage. Since the bill's enactment 8 years ago, it has not been successfully challenged in any court anywhere in the country.

Why, then, do we need to preemptively amend our Constitution? Our Constitution was meant to be a sacred document by which we protect and expand individual rights, not to take them away, not to restrict them. That is not what our country is about, and thus that is not what the Constitution is about. That is why we ought to stand in opposition to this crass attempt to politically divide the American public in an election year. We ought to vote against this. We ought to vote for the Constitution. We ought to uphold the vision of our forefathers and expand the Constitution, use it as a document to protect individual rights, not to restrict and destroy them.

Mrs. MYRICK. Mr. Speaker, I yield 3½ minutes to the gentleman from Missouri (Mr. AKIN).

Mr. AKIN. Mr. Speaker, I am pleased to rise today in support of the Marriage Protection Amendment rule. We did not ask for this debate. It was brought on us by activist judges who have chosen to impose on the will of the people this redefinition of marriage.

Sociologists, psychologists, and other experts can give us all sorts of technical explanations, but we all know from experience that kids are best off when they have a mom and a dad. And kids are what this debate is all about. It is not about civil rights or the rights of same-sex couples. Same-sex couples are free to live as they choose. This amendment does not change that. Instead, this amendment simply defines what marriage is, the union of one man and one woman.

There are some here that would claim that traditional marriage is discriminating. But my question is this: Did 342 Members of this House and former President Clinton in their support of the Defense of Marriage Act discriminate when they voted that marriage is between one man and one woman? Are we saying that 70 percent of the voters of my State that just said that marriage is between one man and one woman, are they discriminating? How about 80 percent of the voters of Louisiana, are they discriminating? I do not think so.

Activist judges are trying to institutionalize a lie, that marriage is just about big people's relationships. But they forget the little people, about the children, the whole generation of kids who will struggle because of the terrible precedent set by changing the institution of marriage.

We do not have to look very far to see the results of family deterioration. Whole cities have suffered terrible poverty and crime because the model of traditional families has been weakened. Should we now stand idly by while a mere handful of activist judges seek to institutionalize the lie that marriage is disconnected from child rearing? Certainly the experience in the Netherlands would tell us that we should not. When they changed the definition of marriage, they had many more children born out of wedlock.

The other night I went to dinner, and there was a beautiful little 16-year-old girl there. She had never had a family. She said that there was one thing that she had wanted all of her life and there was only one thing she had ever wanted and that was she wanted a family. Her heart was telling her the truth. Think about what she had lost. Have you ever been completely lonely? No mom? No dad? Nobody to turn to? Think about what a family provides: the love, the affection, the security when you have a bad dream at night, self-discipline and obedience and the grace of forgiveness and sharing as opposed to selfishness.

I remember as a kid riding a bicycle. I was trying to learn. My dad ran along beside. He was so big and strong. I got it to go a ways and crashed into a bush. I came up all crying and scratched. He put me back on the bike and taught me something about persevering.

That is what this whole story is about. It is about little people and whether they are going to have a mother and a father. The real discrimination here is the activist judges who would deny children the rich advantages of a mom and a dad. If this Congress does not act to protect families, it is a gross dereliction of our duty.

Vote to protect our children and vote to protect marriage.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Let me first say to the gentleman who just spoke, I guess I must obviously have more confidence in our State legislatures across this country than he does because State legislatures all across this country are acting on this issue. I think they are closer to the people of the States than in many respects we are. It seems to me that this process is working. When he says that we are forced to be here, that we cannot talk about getting a real highway bill, that we cannot talk about health care, that we cannot talk about national security issues or veterans benefits or education, but we have to be here and debate this right now, the fact of the matter is this debate is going on all across this country, and we should let that process make its way through.

Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. OLVER).

Mr. OLVER. Mr. Speaker, I rise in strong opposition to this rule and to the underlying amendment.

Mr. Speaker, soldiers and innocent civilians are dying every single day in Iraq, 45 million Americans are without health insurance, over 35 million Americans are living in poverty, and 8 million are unemployed and looking for work. Yet with only 10 days until recess, the leadership of this House wastes time on a constitutional amendment that does nothing to stop the deaths of our courageous young people in Iraq, nothing to implement the recommendations of the 9/11 Commission, nothing to address the health care crisis in this country, and nothing to create jobs for unemployed workers and our growing population.

Instead, they bring forward a constitutional amendment which, if ratified, would enshrine discrimination in the United States Constitution, this country's most treasured document. Our Constitution has never been amended to discriminate against a particular group of Americans.

Gay and lesbian Americans deserve the same rights, responsibilities, and protections as other citizens. This amendment would deny same-sex couples the right to make medical decisions for a sick spouse, to share health insurance, to collect Social Security death benefits, all rights that married couples take for granted. We all have family members or friends whose hopes and dreams this amendment would shatter, good people whose lives should not be used as an election-year tactic to distract attention from the incompetence of the Bush administration's planning for and the conduct of the dismal, dismal aftermath of President Bush's war on Iraq and to distract attention from 4 years of deteriorating fiscal stability here at home, with record yearly deficits, exploding national debt, and puny job growth.

Mr. Speaker, we should reject this rule and this divisive, discriminatory amendment.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. I thank the gentlewoman for yielding me this time.

Mr. Speaker, my comments would be generally around an article which appeared by one of my colleagues whom I greatly respect, the gentleman from California (Mr. COX), who spoke out against this amendment. I generally agree with the gentleman from California (Mr. COX), but I have to respectfully disagree with him on this particular item.

Traditional marriage, let us face it, is under attack for the very reasons that my colleague from California (Mr. COX) had cited in that article. We need a constitutional amendment to protect traditional marriage from the courts. For the reasons cited by the Massachusetts Supreme Court and the logic of the U.S. Supreme Court in Lawrence v. Texas, we cannot trust the courts to interpret the law as it was intended.

As the gentleman from California (Mr. COX) cited in the article: ''The judicial imagination continues to thrive.'' While I believe that rights under the 14th amendment should evolve, there must be checks. The Marriage Protection Amendment will check this imagination and protect marriage as it was intended.

The need for a Federal marriage amendment is simple. The traditional institution of marriage is under Federal constitutional attack in the courts. Legal experts across the political spectrum agree that the only way to guarantee and preserve the status quo, and the traditional institution of marriage, is a Federal constitutional amendment.

Immediately after the U.S. Supreme Court announced its decision in Lawrence v. Texas in June of 2003, legal experts predicted that courts would begin to strike down traditional marriage laws around the country. Indeed, one justice, Ruth Bader Ginsburg, has already written, while serving as general counsel to the American Civil Liberties Union, that traditional marriage laws such as anti-bigamy laws are unconstitutional and must be struck down by the courts.

A State constitutional amendment cannot solve this problem. Just ask Nebraska, whose State constitutional

amendment is currently under Federal constitutional attack. And as the gentleman from California (Mr. COX) had acknowledged, even the Massachusetts Supreme Judicial Court relied on the 14th amendment, a Federal constitutional provision, to invalidate traditional marriage laws in that State.

At least six Federal constitutional challenges to the Federal Defense of Marriage Act, DOMA, are now pending in four States: Florida, Minnesota, Washington, and California. A representative of the Lambda Legal organization, a champion of the nationwide litigation campaign to abolish traditional marriage laws in every State, recently stated, ''We won't stop until we have same-sex marriage nationwide.''

The only way to stop the lawsuits and to ensure the protection of traditional marriage is a constitutional amendment.

Mr. MCGOVERN. Mr. Speaker, the Log Cabin Republicans, which is a very well-known group to all of us here in the Congress, a group that voted to endorse Bob Dole in 1996 and George Bush again in 2000, has issued a statement entitled ''Log Cabin Republicans Vote to Withhold Their Endorsement from President Bush.''

The statement says that it is impossible to overstate the depth of anger and disappointment caused by the President's support for an anti-family constitutional amendment. It goes on to say that using gays and lesbians as wedge issues in an election year is unacceptable to Log Cabin, and they conclude by saying that this year they will withhold their endorsement of President Bush.

The text of the article is as follows:

LOG CABIN REPUBLICANS VOTE TO WITHHOLD ENDORSEMENT FROM PRESIDENT BUSH

WASHINGTON, Sept. 8.—Log Cabin Republicans are withholding their endorsement from President Bush for 2004. ''Log Cabin's National Board has voted to withhold a Presidential endorsement and shift our financial and political resources to defeating the radical right and supporting inclusive Republican candidates for the U.S. Senate and House of Representatives,'' said Log Cabin Board Chairman William Brownson of Ohio. The Log Cabin Board of Directors voted 22 to 2 not to endorse the President's re-election.

''Certain moments in history require that a belief in fairness and equality not be sacrificed in the name of partisan politics; this is one of those moments. The national board's vote empowers Log Cabin to maintain its integrity while furthering our goal of building a more inclusive Republican Party. Log Cabin is more committed than ever to its core mission to build a stronger and more inclusive Republican Party. There is a battle for the heart and soul of the Republican party, and that fight is bigger than one platform, one convention, or even one President,'' said Log Cabin Republicans Executive Director Patrick Guerriero.

The vote by Log Cabin's 25 member national board marks the first time since the organization opened a national office in Washington, DC in 1993 that the organization has not endorsed the Republican nominee for President. Log Cabin endorsed Bob Dole in 1996 and George W. Bush in 2000.

Log Cabin will devote its financial and political resources to elect fair-minded Republican allies to local, state and federal offices. Log Cabin will endorse more than 50 GOP candidates for the U.S. House and Senate. ''Every victory by fair-minded Republicans is a victory for the future of our party. We have made it clear that we can either be the party of Arnold Schwarzenegger and Rudy Giuliani or we can be the party of Alan Keyes and Rick Santorum,'' continued Guerriero.

''Log Cabin has proudly supported the President's firm leadership in the war on terror. As principled Republicans, we believe in our Party's commitment to a strong national defense and a confident foreign policy. We especially applaud the President's leadership in cutting taxes for American families and small businesses, his belief in free market principles and his compassionate and historic leadership in the global fight against HIV/AIDS,'' continued Guerriero.

''At the same time, it is impossible to overstate the depth of anger and disappointment caused by the President's support for an anti-family Constitutional Amendment. This amendment would not only ban gay marriage, it would also jeopardize civil unions and domestic partnerships. For six months, the President has made it clear what he opposes. He opposes civil marriage equality; however he has failed to articulate clearly what he supports. Does he support federal civil unions? Does he support domestic partnerships? Does he support tax fairness for gay and lesbian couples? Does he support employment non-discrimination? Does he support hate crimes legislation? Does he support allowing gay and lesbian service members to serve openly and honestly?'' asked Log Cabin Political Director Chris Barron. ''An organization's endorsement means nothing if it does not have to be earned.''

''Some will accuse us of being disloyal. However, it was actually the White House who was disloyal to the 1,000,000 gay and lesbian Americans who supported him four years ago. Log Cabin's decision was made in response to the White House's strategic political decision to pursue a re-election strategy catered to the radical right. The President's use of the bully pulpit, stump speeches and radio addresses to support a Constitutional amendment has encouraged the passage of discriminatory laws and state constitutional amendments across America. Using gays and lesbians as wedge issues in an election year is unacceptable to Log Cabin,'' continued Guerriero.

''At the same time that we saw record numbers of gay and lesbian delegates at the Republican National Convention, and at the same convention where we saw hundreds of fair-minded Republicans gather to support Log Cabin and our allies, our party's platform adopted vicious and mean-spirited language that marginalizes gay and lesbian Americans.''

Log Cabin's 2000 endorsement of the Bush/Cheney ticket came during an election where the Republican nominee ran a compassionate conservative campaign that avoided culture war issues. After meeting with gay Republicans in 2000, Mr. Bush declared ''I am a better man,'' and welcomed gays and lesbians as valued parts of the American family. The early days of the Bush administration were marked by significant victories—maintaining existing anti-discrimination protections for federal employees, appointing openly gay employees throughout the Administration, a continuing dialogue with our organization, and the extension of survivor benefits to gay and lesbian partners who lost loved ones on 9/11.

Unfortunately these early successes were short-lived. ''Last year, a dramatic and disappointing shift occurred rooted in Karl Rove's public acknowledgment that the 2004 re-election campaign would focus on turning out four million more evangelicals who he believed stayed home in 2000,'' said Guerriero. The President's initial reluctance to amend the Constitution became full-fledged support on February 24th of this year.

Log Cabin has spent most of the year fighting the anti-family Federal Marriage Amendment. This fight culminated with a July victory in the Senate when a growing chorus of Republican opposition of the amendment forced the pro-amendment faction to play procedural games to avoid an embarrassing loss. As many as a dozen or more Republican Senators were prepared to oppose the FMA on its merits.

''During the fight over the anti-family FMA, we sadly watched as the President and his Administration leaned on Republican members of the House and Senate to support this divisive and unnecessary amendment. We watched as the President's support for this anti-family amendment emboldened the forces of fear and exclusion to push anti-gay ballot initiatives and legislation on the state and local level. We watched as the radical right works to defeat fair-minded Republicans across the nation. We watched as the Republican Party Platform rejected our Party Unity Plan and included language opposing not only civil marriage but also civil unions, domestic partnerships or indeed any basic benefits for same-sex couples. At a time when courageous gay and lesbian military personnel are helping to win the war on terror, the platform outrageously claims 'homosexuality is incompatible with military service','' continued Guerriero. The GOP platform language continues to target gays and lesbians and fails to present a positive agenda to ensure basic fairness for millions of gay Americans, who pay taxes, serve in the military, enhance communities, and serve in government.

Throughout this challenging year Log Cabin has doubled in size and launched new chapters were none existed. Log Cabin successfully led the fight against the Federal Marriage Amendment with its first ever television advertising campaign, worked with 18 GOP lawmakers in passing hate crimes legislation in the Senate, and continued supporting and educating state and local officials. Log Cabin was proud to be the only gay and lesbian organization to endorse Arnold Schwarzenegger's campaign for Governor of California. Log Cabin also was proud to see many of its closest allies speaking in primetime at the Republican National Convention. ''It is not surprising to anyone at Log Cabin that the President's first real bounce in the polls came after a convention that highlighted inclusive Republicans and focused on unifying issues such as winning the war on terror. Log Cabin knows that the 2006 and 2008 elections will highlight a new generation of inclusive Republican leaders,'' said Guerriero.

Log Cabin calls on both major parties to return to the issues that unite the American family instead of fueling an unnecessary culture war. Log Cabin also denounces the continued flip-flops on gay and lesbian issues from Democratic nominee John Kerry. Senator Kerry has repeatedly made clear his opposition to civil marriage equality and has supported discriminatory constitutional amendments in Massachusetts and Missouri.

Log Cabin is firmly committed to seeing inclusive Republicans elected in 2004. Log Cabin will continue to oppose and expose any efforts to marginalize gays and lesbians. We also will continue to make it clear that the only way the GOP can continue as the majority party is to reach out to all Americans. Log Cabin also will continue to make it clear

that the gay and lesbian community can realize full equality only if it works on building new alliances with conservative and centrist Americans.

''The battle for the heart and soul of the Republican Party has just begun. We are confident that the politics of inclusion and hope will prevail over the politics of exclusion and fear. History, fairness and common decency are on our side,'' concluded Guerriero.

Last week, Log Cabin launched a new television advertising campaign to take this fight for the GOP's future directly to the American people. The ad makes it clear that the party has a choice. We can be the party of hope, in the best tradition of Ronald Reagan, by uniting around issues that bring Republicans together, like winning the war on terror; or the party can divide Americans with the politics of intolerance and fear that only lead to hate.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 2½ minutes to the gentleman from Maryland (Mr. BARTLETT).

(Mr. BARTLETT of Maryland asked and was given permission to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, there seems to be some confusion as to what constitutes marriage. In the Christian community, and we are a Christian Nation, you can affirm that by going back to our Founding Fathers and their belief in how we started, among Christians, marriage is generally recognized as having started in the Garden of Eden. You may go back to Genesis to find that and you will note there that God created Adam and Eve. He did not create Adam and Steve. A union between other than a man and a woman may be something legally, but it just cannot be a marriage, because marriage through 5,000 years of recorded history has always been a relationship between a man and a woman.

□ 1330

More than just Christian societies have marriage. And why would every recorded society through 5,000 years of recorded history, why would they all have marriage as a union between a man and a woman? It is because societies, one and all, have recognized that marriage is a very important institution. And why is it important? It is because the usual product of marriage is children. And the state, or the tribe or whatever the organization is, all through history recognized that there is a responsibility for the assurance that the children brought into the world as a result of marriage are going to be cared for, which is why all of these societies have recognized that children should not be born out of that relationship, and that relationship is fundamentally there to make sure that their society is going to be perpetuated because children are going to be cared for, if not by the parents, then by the society that has recognized this relationship.

I think that a society is at risk when the institution of marriage, so fundamental to the stability of society, is put at risk.

So I am in strong support of this rule and the bill that follows.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I would just point out to the gentleman who just spoke that there is no law in this country that forces any given religion to recognize any particular marriage. Religions are separate from what we are talking about here today. I just want to remind the gentleman that there are non-Christians who live in this Nation as well, and I would hope that he would believe that this country is equally theirs as well.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. Mr. Speaker, I would note that I had mentioned that not only Christian nations but every society through 5,000 years of recorded history has recognized the institution of marriage as being essential to the stability of their society. We are a Christian society, but I recognize that every other society, no matter what their origin, has certified that marriage is important to the stability of their society. It is to ours. It was to theirs.

I support the rule, and I support the bill.

Mr. MCGOVERN. Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. FEENEY).

Mr. FEENEY. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I have to tell the Members I cannot imagine a more important debate, sadly, that we must have. The question is whether or not the United States House of Representatives is going to sit idly by and be silent while activist radical judges unravel the very fabric of our society by undoing the basic building block that has made this and every civilization that has ever been successful a success.

What we have got to recognize is that we have an obligation as a Congress here. Yes, there are three separate and equal branches of government in the United States under our wonderful Constitution given to us from the Founders. However, it is unfortunate that all too often lately, the judicial branch has essentially forced legislature into drafting reactions to what they have invaded, which is the territory of the Congress in making laws for the country. And thus this constitutional amendment is absolutely necessary.

Of course, a healthy jealousy between the three branches is always a good thing. It was designed by Madison and the Framers in order to have a give and take between the three branches. But it is emphatically within the province of the Congress to make laws that affect the people of the United States of America, and all too often courts are trying to do that for us.

Today, we are here to protect the very definition of marriage. The American people have spoken very clearly time after time about the importance of defending the traditional view of marriage. This amendment does not prohibit any consensual behavior between any two American citizens. It does not prevent any two people from behaving however they would like. What it does do is to defend for our children, for our posterity, the traditional, historic definition of marriage.

It is unfortunate that the will of the people increasingly is being violated by activist judges so that they can impose like philosopher-kings their view of a better way to do things, and they have certainly come up with a better way to do traditional family life. And they are going to, as they did in Massachusetts, try to impose it on all Americans.

Thomas Jefferson, near the end of his life, wrote in a letter to Edward Livingston on March 25, 1825: ''One single object . . . will merit the endless gratitude of society: that of restraining the judges from usurping legislation.''

Mr. Speaker, with that, I beg Congress to protect marriage, protect our children, protect our future. Vote for this amendment.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I would like to read a Q and A between Vice President DICK CHENEY and a questioner in Davenport, Iowa, on August 24, 2004, because I think it helps to kind of put this in perspective, and maybe some of my colleagues should listen to this.

The question was: ''We have a battle here on this land as well. And I would like to know, sir, from your heart, I don't want to know what your advisors say or even what your top advisor thinks, but I need to know, what do you think about homosexual marriages?''

And the Vice President responded: ''Well, the question has come up obviously in the past with respect to the question of gay marriage. Lynn and I have a gay daughter, so it's an issue that our family is very familiar with. We have two daughters, and we have enormous pride in both of them. They're both fine young women. They do a superb job, frankly, of supporting us. And we are blessed with both our daughters.

''With respect to the question of relationships, my general view is that freedom means freedom for everyone. People ought to be able to be free, ought to be free to enter into any kind of relationship they want to. The question that comes up with respect to the issue of marriage is what kind of official sanction or approval is going to be granted by government, if you will, to particular relationships. Historically, that's been a relationship that has been handled by the States. The States have made that basic fundamental decision in terms of defining what constitutes a marriage. I made clear 4

years ago, when I ran and this question came up in the debate I had with JOE LIEBERMAN, that my view was that that's appropriately a matter for the States to decide and that's how it ought to be best handled.''

I very rarely agree with the Vice President of the United States, but I think he makes an awful lot of sense on this issue, and I think he makes a compelling case why we should not be moving forward with a constitutional amendment.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. BARRETT).

Mr. BARRETT of South Carolina. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, this afternoon, we will debate and vote on the Marriage Protection Amendment. And let us be clear. This debate today is not about denying anyone rights. This is ensuring that the will of the people is protected.

My home State of South Carolina is one of 44 States that has already enacted laws defining marriage as a union between a man and a woman. They voted, and they decided how marriage should be defined. So I stand here today as their representative, wondering why that will and that the will of over 70 percent of Americans nationwide should be tossed aside because a few activist judges disagree.

Unfortunately, as we stand here today, we are faced with the fact that a handful of these judges have taken it upon themselves to hand down rulings that in effect amend the Constitution of the United States. They have circumvented the democratic process with their rulings. Therefore, the decision we are now left with is not whether the Constitution will be amended but who will amend it, activist judges or the American people.

Every American should have the opportunity to vote on this important issue. The institution of marriage deserves protection. It is our most basic social institution for protecting children. Preserving it sends a message to our children about marriage and traditional family life and values.

Mr. Speaker, I hope my colleagues will join me today in supporting the marriage protection amendment. It is time to get the debate back where it belongs, with the American people.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I would just like to read a couple of other quotes here which I think are enlightening. One from JOHN MCCAIN, Republican Senator from Arizona where he said: ''The constitutional amendment we're debating today strikes me as antithetical in every way to the core philosophy of Republicans.'' He added, the amendment ''usurps from the States a fundamental authority they have always possessed and imposes a federal remedy for a problem that most States do not believe confronts them.''

Let me read one other quote here. ''It seems to me that the power to regulate 'commerce' can by no means encompass authority over mere gun possession any more than it empowers the Federal Government to regulate marriage, littering, or cruelty to animals throughout the 50 States. Our Constitution quite properly leaves such matters to the individual States.'' And that is from the words of Supreme Court Justice Clarence Thomas in U.S. v. Lopez.

Mr. Speaker, today, we have the opportunity to do the right thing. We have the opportunity to reject the politics of division and discrimination. We have the opportunity to protect the Constitution of the United States, to stay on the path toward equal protection under the law for every single American. We have the opportunity to act in a way that reflects well on this institution and the people we are elected to serve.

I am encouraged, Mr. Speaker, by the number of Republicans who will vote ''no'' on this misguided constitutional amendment today. And I am proud to stand with them.

We will hear a lot about Massachusetts today. A son of our State named John F. Kennedy once said, ''The heart of the question is whether all Americans are to be afforded equal opportunities, whether we are going to treat our fellow Americans as we want to be treated.'' Mr. Speaker, that is indeed the heart of the question.

I urge my colleagues to seize this opportunity, vote ''no'' on this constitutional amendment.

Mr. Speaker, I yield back the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.J. Res. 106.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MARRIAGE PROTECTION AMENDMENT

Mr. DELAY. Mr. Speaker, pursuant to House Resolution 801, I call up the joint resolution (H.J. Res. 106) proposing an amendment to the Constitution of the United States relating to marriage, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 106 is as follows:

H.J. RES. 106

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

''ARTICLE —

''SECTION 1. SHORT TITLE.

''This Article may be cited as the 'Marriage Protection Amendment'.

''SECTION 2. MARRIAGE AMENDMENT.

''Marriage in the United States shall consist solely of the union of a man and a woman. Neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman.''.

The SPEAKER pro tempore. Pursuant to House Resolution 801, the Chair at any time may postpone further consideration of the joint resolution until a time designated by the Speaker.

The gentleman from Texas (Mr. DELAY) and the gentleman from Michigan (Mr. CONYERS) each will control 1 hour and 15 minutes.

The Chair recognizes the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I yield 7 minutes to the distinguished gentlewoman from Colorado (Mrs. MUSGRAVE), the author of this amendment.

Mrs. MUSGRAVE. Mr. Speaker, I rise to speak in favor of the proposed marriage protection amendment to the Constitution of the United States of America.

Before addressing the merits of the marriage protection amendment, I want to thank the gentleman from Illinois (Speaker HASTERT) and the gentleman from Texas (Mr. DELAY) for bringing this bill up.

I know there are some in Congress and the media who do not believe traditional marriage rises to the level of importance to be considered on the floor today.

The American people disagree with them. This bill is about protecting the institution of marriage, which, as the Supreme Court said many years ago, is ''the foundation of the family and of society, without which there would be neither civilization nor progress.''

□ 1345

Since Labor Day, this Congress has spent time renaming post offices and Federal buildings, Mr. Speaker. If we have enough time to rename post offices and Federal buildings, surely we have enough time to spend an afternoon considering whether the very foundation of traditional marriage will endure another 200 years.

On one matter, however, I do agree with the opponents of this bill: We should not lightly undertake to amend the Constitution. In the 213 years since

the Bill of Rights was adopted, the Constitution has been amended only 17 times, an average of once every 12½ years.

As a conservative I understand, perhaps better than most, the national consensus that the Constitution should be amended only rarely. Indeed, I wish we could leave the Constitution alone and this amendment was unnecessary, and if there was any other way to protect marriage, I would be the first to support it. Unfortunately, this is not the case. The matter has been forced upon us, and, whether we like it or not, the Constitution is about to be amended.

Let me say that again: The choice before us is not whether to amend the Constitution or leave it unamended. One way or another, the Constitution will be amended, and the only choice we have is whether to act now and accomplish the amendment through the procedures specified in the Constitution itself, or fail to act, in which case the amendment would be accomplished de facto by activist courts bent on imposing by judicial fiat a transformation of traditional marriage that is unsought and unwanted by the American people.

How do I know what the American people want? Simple. When the people are given a voice in this matter, they support traditional marriage by overwhelming margins. Last month, for example, the people of Missouri approved a marriage protection amendment to their State constitution by a margin of 70.8 percent, and 2 weeks ago the people of Louisiana approved a similar amendment by a margin of 78 percent. Yet the people's will does not seem to count with the courts.

Last year, Justice Scalia warned us in their Lawrence decision that the Supreme Court was paving the way for activist judges to redefine traditional marriage. Even after Justice Scalia's warning, few of us were prepared for the breathtaking speed with which events would overtake us. Only months later, the Massachusetts Supreme Judicial Court decreed that for the first time in the history of this Nation, a State would be required to issue marriage licenses to same-sex couples.

The Massachusetts courts are not alone. Only last month, courts in Washington struck down as unconstitutional that State's Defense of Marriage Act in cases concerning the recognition of same-sex marriages.

Even in the face of this judicial onslaught, some argue that we should wait to act until after the Supreme Court has ruled on the constitutionality of the Federal Defense of Marriage Act. Does anyone else see the irony here? Many of those who spoke the loudest that DOMA was unconstitutional when it was enacted in 1996 are the very same ones who now say we ought to presume DOMA is constitutional until the courts tell us otherwise.

I say if we could place our confidence in the Supreme Court, there would be no need for the marriage protection amendment in the first place. But in Lawrence, Justice O'Connor wrote a concurring opinion in which she specifically stated that she believed preserving the traditional institution of marriage would be a sufficient basis for upholding a State marriage law. The five members of the Lawrence majority had an obvious opportunity to join Justice O'Connor's position and thus reassure us on this issue. Instead, they chose to remain silent. Let me suggest their silence speaks volumes.

No, we must not wait. The trajectory of the courts' decisions is unmistakable, and we must act now to preserve traditional marriage. We have already seen that even one State's misadventure in this area has had egregious nationwide consequences, as activists file lawsuit after lawsuit seeking to export same-sex marriages to other States. Ironically, it will take an amendment to the Federal Constitution to force this issue out of the courts and back to State legislatures, where it has always been and where it properly should be.

Mr. Speaker, some people have opposed the marriage protection amendment on the grounds that it discriminates. But it is not the marriage protection amendment that discriminates against homosexuals. Rather, the institution of marriage, as it has been understood for millennia, by its very nature is reserved exclusively for persons of the opposite sex. Moreover, society has always limited the pool of persons available for marriage by age, blood ties, mental capacity, and other considerations.

The limitations of traditional marriage rest not on an intent to discriminate, but on what is most beneficial for society and children, as evidenced by volumes of social science research. Traditional marriage is worth preserving because the nuclear family is far and away the best environment in which to raise children. Every child deserves both a father and a mother.

Yes, traditional marriage has had its problems. The high divorce rate, infidelity, and domestic violence are a national scandal, but far from undermining my point, these trends reinforce it because we are dismayed by these trends for the very reason that they lead to the break-up of traditional families, which leads to more and more children being deprived of the tremendous benefit of having both their mom and dad around to raise them.

In conclusion, Mr. Speaker, let me say I wish traditional marriage was not under attack, but it is. I wish we did not have to deal with this problem now, but we do. Like it or not, the courts have thrust this burden on us and we must not fail to shoulder it.

We as Members of Congress have a responsibility to restrain activist judges who think they can, without devastating consequences to our society, simply jettison the collective wisdom of thousands of years without the input or consent of the American public or their elected Representatives.

Mr. Speaker, I encourage my colleagues to support the marriage protection amendment.

I submit the following letter for the RECORD.

Congresswoman MARILYN MUSGRAVE,
Longworth House Office Building,
Washington, DC.

DEAR REPRESENTATIVE MUSGRAVE: The United States House of Representatives is considering whether or not to send a constitutional amendment protecting marriage to the States for their consideration. Contrary to recent arguments and assertions, I believe that this amendment is consistent with—and increasingly necessary to uphold—the principles of federalism so important to our constitutional government.

The Framers rightly left marriage policy, as so many other things, with the States. But the definition of marriage is not mere policy issue. It strikes at the very integrity and meaning of one of the primary elements of civil society.

In a free society, certain questions must be settled for the good of that society. States can't impair the obligation of contracts, or coin their own money, or experiment with forms of non-republican government. We learned the hard way that the nation could not endure half slave and half free.

As marriage is a fundamental social institution, it is not only reasonable but also obligatory that it be preferred and defended in the law. Activist judges forcing the redefinition of marriage make it necessary to protect the institution in the U.S. Constitution.

This doesn't mean that marriage must be completely nationalized or should become the regulatory responsibility of the federal government. Policy decisions concerning questions such as degrees of consanguinity, the age of consent, and the rules of divorce should remain with the States.

The wisdom of extending certain benefits that stop well short of marriage—that don't undermine the distinctive status of marriage—are policy questions that should be the responsibility of State legislatures.

A Constitutional amendment that defines marriage and blocks the actions of overzealous judges would protect the States's capacity to regulate marriage by protecting the integrity of the institution as such.

In order to guard the States' liberty to determine marriage policy in accord with the principles of federalism, society as a whole must prevent the institution itself from being judicially redefined out of existence.

The constitutional amendment process is neither an exclusively federal nor an exclusively State action: It is a shared responsibility of both Congress and the States representing the American people. By intention, it is a very difficult process.

Constitutional amendments ought to be rare and should be pursued only after careful and serious consideration, when it is necessary to address an issue of great national magnitude and when there is broad-based support among the American people throughout the States, as there is concerning marriage.

Is marriage sufficiently important to protect in the United States Constitution?

Despite our reluctance to amend our most sacred law—despite the significance of the endeavor and awesome task involved—recent and impending judicial activism justifies this course of action.

Thank you for considering and sharing these concerns with other Members of Congress.

Sincerely,

EDWIN MEESE, III,
Chairman, Center for Legal & Judicial Studies, The Heritage Foundation.

TESTIMONY OF REVEREND RICHARD RICHARDSON, ST. PAUL AFRICAN METHODIST EPISCOPAL (AME) CHURCH, THE BLACK MINISTERIAL ALLIANCE OF GREATER BOSTON, CHILDREN'S SERVICES OF ROXBURY, INC., BOSTON, MA

(Before the Senate Judiciary Constitution Subcommittee—March 3, 2004)

Chairman Cornyn, Ranking Member Feingold, and other distinguished members of the subcommittee, thank you for the opportunity to come before you today.

My name is Richard W. Richardson. I am an Ordained Minister in the African Methodist Episcopal Church in Boston, Massachusetts. I am also President and CEO of Children's Services of Roxbury, a child welfare agency. I've worked in the field of child welfare for almost 50 years. In addition, I have been a foster parent myself for 25 years.

Finally, I serve as chairman of the Political Affairs Committee of the Black Ministerial Alliance of Greater Boston. The BMA has a membership of 80 churches from within the greater Boston area, whose primary members are African American, and number over 30,000 individuals and families. I am here today to offer testimony on behalf of the BMA as well as myself.

The BMA strongly supports the traditional institution of marriage, as the union of one man and one woman. That institution plays a critical role in ensuring the progress and prosperity of the black family and the black community at large. That's why the BMA strongly supports a federal constitutional amendment defining marriage as the union of one man and one woman, and why the BMA is joined in that effort by the Cambridge Black Pastor's Conference and the Ten Point Coalition.

The BMA didn't come at this conclusion lightly. I never thought that I would be here in Washington, testifying before this distinguished subcommittee, on the subject of defending traditional marriage by a constitutional amendment. As members of the BMA, we are faced with many problems in our communities, and we want to be spending all of our energies working hard on those problems. We certainly didn't ask for a nationwide debate on whether the traditional institution of marriage should be invalidated by judges.

But the recent decision of four judges of the highest court in my state, threatening traditional marriage laws around the country, gives us no choice but to engage in this debate. The family and the traditional institution of marriage are fundamental to progress and hope for a better tomorrow for the African-American community. And so, much as we at the BMA would like to be focusing on other issues, we realize that traditional marriage—as well as our democratic system of government—is now under attack. Without traditional marriage, it is hard to see how our community will be able to thrive.

I would like to spend some time explaining why the definition of marriage as the union of one man and one woman is so important—not just to the African-American community, but to people of all religions and cultures around the world.

To put it simply: We firmly believe that children do best when raised by a mother and a father. My experience in the field of child welfare indicates that, when given a choice, children prefer a home that consists of their mother and father. Society has described the ''ideal'' family as being a mother, father, 2.5 children and a dog. Children are raised expecting to have a biological mother and father. It is not just society—it is biology, it is basic human instinct. We alter those expectations and basic human instincts at our peril, and at the peril of our communities.

The dilution of the ideal—of procreation and child-rearing within the marriage of one man and one woman—has already had a devastating effect on our community. We need to be strengthening the institution of marriage, not diluting it. Marriage is about children, not about adult love. As a minister to a large church with a diverse population, I can tell you that I love and respect all relationships. This discussion about marriage is not about adult love. It is about finding the best arrangement for raising children, and as history, tradition, biology, sociology, and just plain common sense tells us, children are raised best by their biological mother and father.

Let me be clear about something. As a reverend, I am not just a religious leader. I am also a family counselor. And I am deeply familiar with the fact that many children today are raised in nontraditional environments. Foster parents. Adoptive parents. Single parents. Children raised by grandparents, uncles, aunts. I don't disparage any of these arrangements. Of course I don't. People are working hard and doing the best job they can to raise children. That doesn't change the fact that there is an ideal. There is a dream that we have and should have for all children—and that is a mom and dad for every child, back or white.

I don't disparage other arrangements. I certainly don't disparage myself. As a foster parent to more than 50 children, a grandparent of seven adopted grandchildren, and almost 50 years of working with children who have been separated from their biological parent(s) and are living in a foster home, been adopted, or in any other type of nontraditional setting, I can attest that children will go to no end to seek out their biological family. It is instinct—it is a part of who we are as human beings, and no law can change that. As much as my wife and I shared our love with our foster children, and still have a lasting relationship with many of them, it did not fill that void that they experienced.

I want to spend my last few moments talking about discrimination. I want to state something very clearly, without equivocation, hesitation, or doubt. The defense of marriage is not about discrimination. As an African-American, I know something about discrimination. The institution of slavery was about the oppression of an entire people. The institution of segregation was about discrimination. The institution of Jim Crow laws, including laws against interracial marriage, was about discrimination.

The traditional institution of marriage is not discrimination. And I find it offensive to call it that. Marriage was not created to oppress people. It was created for children. It boggles my mind that people would compare the traditional institution of marriage to slavery. From what I can tell, every U.S. Senator—both Democrat and Republican—who has talked about marriage has said that they support traditional marriage laws and oppose what the Massachusetts court did. Are they all guilty of discrimination?

Finally, I want to mention something about the process. I know that the Massachusetts legislature is currently considering this issue, and I hope that they do. The court has told us that we cannot have traditional marriage and democracy until 2006 at the earliest. That is wrong, that is antidemocratic, that is offensive, and that is dangerous to black families and the black community.

But importantly, a state constitutional amendment will not be enough. I know that the Attorney General of Nebraska is here, and I am honored to share the panel with him. I am not a lawyer. But I know the lawyers who have been fighting to abolish traditional marriage laws in Massachusetts. I have been in the courtrooms and seen them argue. They are good people, and well meaning. But I can tell you this—they are tenacious, they are aggressive, and they will not stop until every marriage law in this nation is struck down under our U.S. Constitution. And every schoolchild learns in civics class knows that the only way to stop the courts from changing the U.S. Constitution is a federal constitutional amendment.

The defense of marriage should be a bipartisan effort. I am a proud member of the Democratic Party. And I am so pleased that the first constitutional amendment protecting marriage was introduced by a Democrat in the last Congress. I am honored to have been invited here to testify in front of this subcommittee of both Republicans and Democrats. I hope that each and everyone of you will keep the issue of defending the traditional institution of marriage as a bipartisan issue.

Mr. Chairman, thank you for giving me the opportunity to represent the Black Ministerial Alliance of Greater Boston, the Cambridge Black Pastor's Conference, and the Ten Point Coalition, in reaffirming our support for a Federal Constitutional Amendment to define marriage as the union between a man and a woman. I would be pleased to take any questions.

TESTIMONY OF PASTOR DANIEL DE LEON, SR., ALIANZA DE MINISTERIOS EVANGELICOS NACIONALES (AMEN), PASTOR, TEMPLO CALVARIO, SANTA ANA, CALIFORNIA, GENERAL PRESBYTER, ASSEMBLIES OF GOD

(Before the Senate Judiciary Constitution Subcommittee—March 3, 2004)

Thank you, Mr. Chairman, members of the committee, ladies and gentlemen.

My name is Pastor Daniel de Leon, and I am here to represent the largest Hispanic Evangelical organization in the country, AMEN (Association Evangelica de Ministerios Nacionales). AMEN is comprised of over 8,000,000 members, representing 27 denominations and 22 Latino nations. I am also the Pastor of the largest Hispanic Evangelical Church in America, Templo Calvario, in Santa Ana, California.

AMEN is a leading advocate on issues that concern the Hispanic community. On many issues, we work closely with our Catholic brethren. We are certainly working together on the issue we are discussing today—the institution of marriage, understood throughout history and across diverse religions and cultures as the union of one man and one woman. We have been a member of the Alliance for Marriage since its inception.

When I turned on my television a few weeks ago, and saw what was happening in San Francisco, I couldn't believe my eyes. As I sat there, several things came to mind.

First, I could not understand how an elected official could ignore and violate the laws of our state, and get away with it. I also could not understand why the courts would not stop this—why they would refuse to require an elected official to comply with the law of his state, and to respect the will of the people as expressed in our laws.

Second, it wasn't just that officials and judges were ignoring the law. It was much worse than that. They were ignoring a law that is so fundamental to society—and in particular, of great importance to my community, to the people who I counsel. They were ignoring the importance of the institution of marriage, as the union of one man and one woman.

Just a few years ago, Californians voted to reaffirm that marriage in the state of California is between a man and a woman only. Hispanics in particular voted overwhelmingly to uphold the traditional institution of

marriage. This is one institution, even though imperfect, that has withstood the test of time and has proven to bring a sense of stability to society for time immemorial.

The institution of marriage is designed for children, not for adult love. Adults can love in many ways—between brother and sister, between grandparents, uncles, aunts, between friends and loved ones. But marriage is for children. I am so saddened that we have forgotten that. And I am even more saddened that marriage is drifting further and further from what it is supposed to be all about—children. Adults seem to care more and more about one thing, themselves. This is one of the reasons why 50% of marriages wind up in divorce. We must strengthen marriage—not weaken it. And I fear that, if we start to abolish marriage laws in our nation, we will go further down the path of teaching people that marriage does not matter for the well-being of children, it only matters for the pleasure of adults.

I am not here because I want to be here. There are many problems in my community, and I should be there working on them, not here far away in Washington, D.C. But I have flown all the way here from California, because I need to be here, to defend the most basic institution of society for the good of all, on behalf of my community. Because without marriage, we have no hope of solving the other problems we are facing back home.

I live every day in the front-lines of Urban America, where the ills of society are magnified greatly. People like myself, who provide a service to our community, are often the ones that have to ''pick up the pieces'' when marriages and families fall. In my 30 years of counseling, I have often dealt with grown children that still harbor hurts and deep seated frustrations because they did not have a mother and a father.

I know that there are good people trying to raise children without a mother and a father. Perhaps it is the single parent. Or the grandparent or aunt and uncle. Or the foster parent. They do their best, and we admire and respect them for that. But at the same time, we want the very best for children—and that is a mother and father, and an institution that encourages people to give children both a mother and father.

I want to say something about civil rights and discrimination. My people know something about discrimination. The institution of marriage was not created to discriminate against people. It was created to protect children and to give them the best home possible—a home with a mother and father.

Some people talk about interracial marriage. Laws forbidding interracial marriage are about racism. Laws protecting traditional marriage are about children.

To us in the Hispanic community, marriage is more than a sexual relationship. It is a nurturing, caring and loving relationship between a man and a woman that is to remain intact ''until death do us part.'' Children are born into this loving relationship with a great sense of anticipation. We love our children and we love children as you can tell by the numbers!

Marriage between a man and a woman is the standard. A child is like a twig that is planted in the soil of our society that requires two poles to have the best chance of growing strong and healthy. Those two poles, if you will, are the parents, Dad and Mom. Very different and at a times even opposites but necessary for a balanced form of living.

Furthermore, marriage is a moral and spiritual incubator for future generations. Our children learn from their parents not only how to make a living but more importantly, how to live their life. This is not readily learned by a simple form of transference of knowledge but rather through the experience of daily living. Children learn from observation. As the home goes, so goes society.

I believe that we need to send a positive message to our children and their children. That we cared enough about the most basic institution of our society, marriage between a man and a woman, that we passed a Constitutional Amendment to preserve it for future generations. This is not, and must not be, about party politics. This must be seen as our struggle as a social family to bring stability to a divided house.

The President is right when he said that, ''On a matter of such importance, the voice of the people must be heard . . . if we are to prevent the meaning of marriage from being changed forever, our nation must enact a Constitutional Amendment to protect marriage in America.''

Thank you very much.

Mr. CONYERS. Mr. Speaker, I am very pleased to begin this discussion with the members of the Committee on the Judiciary and others that are joining us asking for time. Before I recognize the ranking member of the Subcommittee on the Constitution of the Committee on the Judiciary, I yield myself such time as I may consume.

Mr. Speaker, I merely want to begin our discussion by observing how unnecessary consideration of this matter is at this point. No one in the Chamber is unaware of the fact that the obvious ploy by some is to play upon the worst fears of our citizens, who are deep into an election year, to deal extensively with a subject, a constitutional amendment, which every Member on this floor knows is going nowhere. The reason? Because it has already been defeated by the other body. The only conceivable point of this amendment is to energize the conservative political base.

Well, we are not buying into that, Mr. Speaker. We know that this is the reason that it is being done, because our distinguished majority leader only recently told us that we could not take up the assault weapons ban because we did not have the votes to pass it.

Well, do we have the votes to pass this amendment, a two-thirds requirement, while we are here on the floor less than 45 days before the election? I think that we know the answer to that.

We know that the States are fully capable of dealing with the issue of the same-sex relationship on their own. Our Nation has a long tradition of leaving questions relating to civil marriage to the States, and for more than 228 years the States have dealt with these issues, with marriage age limits, with miscegenation and divorce. Let us leave it with the States.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to House Resolution 801, further proceedings on H.J. Res. 106 will be postponed.

DIRECTING CLERK TO MAKE CHANGE IN ENGROSSMENT OF H.R. 5183, SURFACE TRANSPORTATION EXTENSION ACT OF 2004, PART V

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that the Clerk be directed to make the change in the engrossment of H.R. 5183 that I have placed at the desk.

The SPEAKER pro tempore. The Clerk will report the change.

The Clerk read as follows:

In subsection (l)(1) that is proposed to be added at the end of section 1101 of the Transportation Act of the 21st Century by section 2(d) of the bill (H.R. 5183), strike ''$21,311,774,667'' and insert ''$22,685,936,000''.

The SPEAKER pro tempore. Without objection, the change is agreed to.

There was no objection.

MARRIAGE PROTECTION AMENDMENT

The SPEAKER pro tempore. Pursuant to House Resolution 801, proceedings will now resume on the joint resolution (H.J. Res. 106) proposing an amendment to the Constitution of the United States relating to marriage.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. When proceedings were postponed earlier today, the gentleman from Texas (Mr. DELAY) had 68 minutes remaining and the gentleman from Michigan (Mr. CONYERS) had 72 minutes remaining.

The Chair recognizes the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. CHABOT), the chairman of the Subcommittee on the Constitution of the Committee on the Judiciary.

Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding me time, and I want to thank the gentlewoman from Colorado (Mrs. MUSGRAVE) for having the courage to bring this forth.

Our Constitution is one of our country's most sacred documents. It is the fulfillment of the promises made in the Declaration of Independence, and it is the backbone of our system of government. It identifies our rights as citizens, the roles and responsibilities of each branch of government, and identifies the limits that prevent government overreaching. It also ensures that our system of government remains a democratic system, whereby the people, through their elected Representatives and officials, make laws. This means a form of government under which laws are passed by the duly elected Representatives of the people, not by judges.

Amending our Constitution is the most democratic process in our Federal system of government, requiring two-thirds of each House of Congress and three-quarters of the State legislatures in order to pass a constitutional amendment. But it has been done and should only be done when principles for governing and for existing in society need to be stated.

The best example of this is the Bill of Rights. The first ten amendments were added to the Constitution to ensure that principles that were so important, that were fundamental for governing and living, were explicitly referenced in the Constitution in advance of any adverse judicial ruling.

We find ourselves in a similar situation today. There should be no disagreement that traditional marriage, as defined throughout our history, is under attack by liberal activists and rogue judges. The only real question at hand is how to protect this important cornerstone of our society.

This issue was first raised with me when I became chairman of the Subcommittee on the Constitution in the 107th Congress. At that time I clearly stated my preference to consider all possible legislative options before pursuing a constitutional amendment. I also felt that we should wait to learn the results of ongoing litigation. My hope had been that the courts would not attempt to alter our social fabric and, instead, leave the issue where it belongs, before Congress and the State legislatures. Obviously, that has not been the case.

In response to judicial decisions and the attempt by elected officials in several communities to approve same-sex marriages in violation of their own State laws, I called for a series of hearings to consider different options for maintaining marriage as a union between a man and a woman. During those hearings, we heard from many experts that provided us with extensive information on legal and social issues. Perhaps most important to this debate we reviewed the status of DOMA, the Defense of Marriage Act, and the consequences that would result from a judge striking down that important legislation.

DOMA's status is at risk. Judge Robert Bork, for example, one of the witnesses, stated in testimony before the Subcommittee on the Constitution during the hearing on the amendment, ''I think DOMA is absolutely a dead letter constitutionally; not because it would be under the original Constitution, but because it is the way this Supreme Court is behaving.''

Professor Lawrence Tribe of Harvard Law School has stated, ''Same-sex marriage is bound to follow. It is only a question of time.''

□ 1400

As a result, our national definition of marriage and the important role that marriage plays in our society more than likely will be changed forever, and it will not be for the better. Once that change is made and forced on every State in our Union, it will be virtually impossible to reverse.

Mr. Speaker, marriage is an institution, not a right. The hearings confirm this. Congress is obligated to support the means that best protect this institution that has been a part of our history. The marriage protection amendment states as follows: ''Marriage in the United States shall consist solely of a union of a man and a woman. Neither this Constitution nor the Constitution of any State shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman.'' That is what it states.

The first sentence of this amendment ensures that a common definition of marriage, that between a man and a woman, exists for the entire Nation. This will preclude attempts by the judiciary or State legislatures to determine otherwise.

The second sentence will prevent the courts from interpreting the Federal Constitution or State constitution to require a legislative body or an executive agency to enact or recognize marriage and its benefits on a civil union or domestic partnership. The second sentence also ensures that State legislatures are able to define for themselves the status of civil unions and domestic partnerships and the resulting benefits.

One way or another, we know that the Constitution will be amended. The question is, is it done the appropriate way, or is it done by unelected, activist judges?

Mr. CONYERS. Mr. Speaker, I am very pleased to yield 6 minutes to the gentleman from New York (Mr. NADLER), the ranking member of the Subcommittee on the Constitution, who has in this Congress found himself busier than almost every other subcommittee that we have. We have a long history of court-stripping attempts, constitutional amendments that were of high dubious legal question, and he has worked tirelessly with a staff I think that is second to none on our committee.

Mr. NADLER. Mr. Speaker, I thank the distinguished ranking member for yielding me this time, and I thank him for those kind words.

Mr. Speaker, today the drumbeat of political demagoguery has reached its crescendo as the House prepared to consider an amendment to the U.S. Constitution banning marriage between persons of the same gender. This amendment does not belong in our Constitution. It is unworthy of this great Nation, and the Senate could not even muster a simple majority to consider it, much less the requisite two-thirds to adopt it.

We have amended the Constitution only 27 times in our history. Constitutional amendments have been used to enhance and expand the rights of citizens, not to take them away.

The Constitution was amended to add the Bill of Rights, protecting freedom of religion, freedom of speech, freedom of assembly, the right to be secure in our homes; 10 amendments for protection of individual rights and liberties. We amended the Constitution to wipe away permanently the stain of slavery, to expand the right to vote, to expand the right of citizenship, to allow for the direct election of Senators, and to allow for the income tax.

Now we are being asked to amend the Constitution again to single out a single unpopular group and say permanently, you cannot even attempt to convince the legislature of your State to give you the right to marry. We have certainly never amended the Constitution on the mere speculation that a court might rule a law unconstitutional. No court has struck down as unconstitutional the Defense of Marriage Act that we passed 8 years ago. There is not even a case pending before any appellate court in this country today. There has not been a single trial-level court decision holding the Defense of Marriage Act unconstitutional; and yet we are told this necessity is imposed upon us. We must protect marriage now. What an imaginary threat.

In fact, the amendment before us is a new version of the amendment. It was not introduced until the end of last week. Although this issue has been the subject of four hearings before the Committee on the Judiciary, this proposed amendment and its potential impact on State marriage laws, historically a right of the States, has not.

When the sponsor of the amendment appeared before the Subcommittee on the Constitution, she was not prepared to comment on a similar version or any version other than the one she had introduced, which is not the one today before us.

The Committee on the Judiciary has not marked up this amendment, either in subcommittee or full committee, although the designation of the oak tree as the national tree has merited such careful deliberation. That is a first. My Republican friends, as amendment-happy as they are, have never previously skipped over committee consideration to bring a just-introduced constitutional amendment to the floor. But I understand them. What is the Constitution between friends? Why should we consider it carefully?

As the ranking member of the Subcommittee on the Constitution, I am normally called upon to explain proposed constitutional amendments. Explaining this one requires some extra effort. From what, precisely, would the so-called marriage protection amendment protect marriage? From no-fault divorce? From legalized fornication? From the failure of States to incarcerate adulterers, perhaps? No. Evidently, the threat to marriage, so-called, is the fact that there are thousands of people in this country who very much believe in marriage, who very much want to marry, who may not marry under the laws of the various States of this country, but whose fellow citizens may conceivably one day permit them to do so; and that we must prevent.

I have been searching in vain for some indication of what might happen to my marriage or to the marriage of anyone in this room if loving couples,

including couples who have had children for years, are permitted to enjoy the blessings of matrimony. If there is a Member of this House who believes that his or her own marriage would be destabilized or destroyed by a same-sex marriage somewhere in America, I would welcome an explanation as to what you think would happen to your marriage and why. Any takers?

The overheated rhetoric we have been hearing is reminiscent of the bellicose fearmongering that followed the Supreme Court's 1967 Loving v. Virginia, which struck down State prohibitions against interracial marriage. The Supreme Court had overstepped its authority, we were told. The Supreme Court had overridden the democratic will of the majority. The Supreme Court had signed a death warrant for all that is good and pure in this Nation.

Fortunately, we have survived as a Nation; and we are the better for it.

In the not-too-distant future, people will look back on these debates with the same incredulity we now view the segregationist debates of years past.

This amendment does more than it purports to do. It would preempt any State law or legislature from passing a law allowing people of the same gender to marry, even if that law was approved by the legislature or, for that matter, by referendum of the people. This is not to protect the States; this is to protect a notion against the democratic will of the majority of the people in the States. Read the first sentence: any such marriage would be unconstitutional.

Proponents of this amendment have already tried to use a similar prohibition against same-sex marriage to attack domestic partner benefits in courts. So do not tell me this is only about marriage. I do not believe it. It says nothing in this amendment about recognition of marriages from one State to another. If you want to allow democratic majorities to have their way within their own borders, this amendment will do the exact opposite.

There are many loving families who deserve the benefits and protections of the law. They do not live just in New York or San Francisco or Boston. They live in every one of the 435 congressional districts in the United States. They are not from outer space, they are not a public menace, and they do not threaten anyone. They are our neighbors, our coworkers, our friends, our siblings, our parents, and our children. They deserve to be treated fairly. They deserve to have the rights of any other family.

I regret that this House is being so demeaned by this debate. It saddens me that this great institution would sink to these depths even on the eve of an election. We know this is not going anywhere. We know it is merely a political exercise. Shame on this House for playing politics with bigotry.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. FEENEY), a member of the Committee on the Judiciary.

Mr. FEENEY. Mr. Speaker, I thank the distinguished majority leader for his leadership on this issue, especially, along with the gentlewoman from Colorado (Mrs. MUSGRAVE) and her brave leadership.

Mr. Speaker, the fact of the matter is, the Constitution is going to be amended. Either radical, unelected judges are going to amend the Constitution from the bench to redefine the traditional view of marriage, or the people's Representatives here in this House and across in the other body are going to act to amend the Constitution to preserve the traditional, historic definition of marriage. I notice that none of the opponents yet of this amendment have said that he or she will do whatever it takes to defend marriage when the time comes, but the action is unnecessary. If they are willing to commit to do whatever it takes to defend marriage, that is another matter; but that is not what they are saying.

Mr. Speaker, we have already seen the Massachusetts Supreme Court undo over 400 years of history in Massachusetts, undo a Constitution which is older than the United States Constitution, and find some new right. In doing so, in establishing same-sex marriage, what the Massachusetts court did is to belittle the traditional definition of marriage and all of the States that actually believe that. They said that there was no logical reason to preserve the benefits of a marriage between a man and a woman.

Even the liberal Washington Post Editorial Board was shocked by the Massachusetts judge's decision, stating in their editorial, ''We are skeptical that American society will come to formally recognize gay relationships as a result of judicial fiats.'' That is exactly what we are here to prevent, the judicial fiat that will undo the traditional definition of marriage which has protected and been the building block of this country forever. None of the States, not one of the State legislatures has ever tried to redefine marriage, but we have had courts in Vermont, in Hawaii, and in Massachusetts now attempt to do that very thing.

What we are here to do is to remind people that under the fourth article to the United States Constitution full faith and credit clause, when one State establishes a marriage as something other than a man and a woman, eventually all other 49 States will be forced, despite DOMA, which we have heard is going to be struck as unconstitutional, both liberal and conservative scholars agree, 49 States will have the definition that Massachusetts has imposed by the bench on their people imposed on us unless we act today.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Ohio (Mr. KUCINICH), a gentleman who has followed the civil rights struggle and the struggle for women in this country for many years.

Mr. KUCINICH. Mr. Speaker, the 14th amendment of the U.S. Constitution guarantees the same rights to all people under the law, all people. It is what keeps us a United States. We call ourselves one Nation under God. Surely we know from the Bible that a city, a house, or a nation divided against itself cannot stand.

This amendment divides our Nation. This amendment creates two classes of people based on sexual orientation. It creates a second-class citizenship. In America, every individual is entitled to equal protection of the law. We could not remain a United States, half slave, half free. We could not remain a United States if a woman's right to vote or to choice were denied, and we cannot remain united if our brothers and sisters are denied equal protection of the law because of their sexual orientation.

In America, we work to eradicate discrimination. In America, we work to create a more just and equal society. In America, our Constitution should further that goal. In America, our Constitution should give rights, not take them away. In America, we must continue to fight for equality and justice. Here we must always be the land of the free, the home of the brave, where the rights of all people are protected, regardless of race, color, creed, or sexual orientation.

Mr. DELAY. Mr. Speaker, I yield myself such time as I may consume.

This is not about discrimination. It is about marriage and judicial activism, but the timing is really important. I would just quote, since we are doing a lot of quoting around here, Paul Kates, director of Public Education for the American Civil Liberties Union's Lesbian and Gay Rights project, who said, ''Once more States agree with Massachusetts. We think it is more likely that we will win in the Federal courts,'' in which case same-sex marriage policies can be imposed across multiple States and even nationwide. It is a concerted strategy to go this route.

Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. HAYWORTH).

(Mr. HAYWORTH asked and was given permission to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I rise in support of this amendment, and I would like to highlight two basic principles in support of the amendment.

The first is this, and everyone should understand this, including my friend, the gentleman from Ohio who preceded me in the well of this House. Same-sex couples have the right to live as they choose, but neither they nor a handful of activist judges have the right to redefine marriage for our entire Nation.

□ 1415

The second point again goes with what my friend from Ohio said and I take issue with. Marriage is not about

excluding a group of people. Marriage is about what is best for our children and our society.

To the first principle, I wish this were not an issue that needed at long last constitutional protection via an amendment, but unfortunately, activist lawyers and judges have been working across our Nation to undermine marriage and impose a new national marriage standard without a public debate. Thousands of same-sex couples from at least 46 States have received marriage licenses in California and Oregon, then return to their home States. This is a national issue, and regardless of the months on the calendar and the so-called political season, the American people have a right to know where their representatives stand.

Mr. Speaker, to those who believe that marriage protection and that this marriage protection amendment is discriminatory, I would ask them this: Do my colleagues truly believe that marriage, the traditional and foundational union between a man and a woman, is discrimination? Mr. Speaker, once we start treating a child's need for a mother and father as discrimination, it becomes impossible for the institution of marriage to do its work. If it is discriminatory to restrict marriage to a man and a woman, then why not have three parents or four or more? Even groups of single people are now protesting that their exclusion from the benefits of marriage is discriminatory.

Now to the second point. Marriage is not about exclusion. It is about inclusion and an inclusive foundation for children and society. Whether a couple is a man and a woman has everything to do with the meaning of marriage. Marriage encourages the men and women who together create life to unite in a bond for the protection of children. That is not discrimination. It is the building block on which our society is based.

Now, Mr. Speaker, failed marriages between individuals does not mean that the institution of marriage itself is failing, but Mr. Speaker, we will fail in our responsibilities to our Nation if we fail to neglect and fail to protect this basic institution in our society.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 7 minutes to the gentlewoman from Wisconsin (Ms. BALDWIN), from the Committee on the Judiciary, a very distinguished lawyer in her third term who has served with us from the time she arrived here.

(Ms. BALDWIN asked and was given permission to revise and extend her remarks.)

Ms. BALDWIN. Mr. Speaker, amending the Constitution is a radical action which should only be undertaken when absolutely necessary. Preemptively amending the Constitution to prevent something that has yet to happen is a dangerous principle that this Congress should not endorse. We must always remember what President Calvin Coolidge once said, ''The Constitution is the sole source and guaranty of national freedom.''

Mr. Speaker, our Constitution has been amended only 17 times since the Bill of Rights, and with the exception of prohibition, which was promptly repealed, the amendments to our Constitution have always been used to secure greater rights and liberties for the American penal system. We have amended the Constitution to make our union more perfect, to ensure all Americans are free to secure the blessings of liberty, that all Americans may achieve the American dream of life, liberty and the pursuit of happiness. Never in our history have we used our most sacred governing document to deny the rights of any group of Americans, nor should we do so today.

This debate today is not simply a theoretical debate. It has a real impact on millions of Americans. I believe that the institution of marriage enhances our social fabric in many positive ways. I think we all agree that loving, supportive marriages provide strong environments for raising children.

Children with two-parent families who are actively engaged in their lives typically have greater financial and emotional stability during the time they grow up than those who are able to only rely on a single parent.

Marriage's role in protecting children is about providing sustenance. It is about teaching. It is about sharing cultures and beliefs. It is about transmitting a family's values. It is about providing love and emotional support. These are all important components of marriage, and none of them are exclusive to a couple consisting of a man and a woman.

Marriage laws in the United States provide important rights, responsibilities, privileges and obligations. In each State, literally thousands of rights, responsibilities, privileges and obligations are conferred upon the receipt of a State marriage license. Likewise, there are more than 1,000 Federal rights that benefit married persons, among them: the right to make decisions on a spouse's behalf in a medical emergency; the right to take the benefits of the Family Medical and Leave Act for an ill spouse or ill parent of a spouse; the right to petition for spouses to immigrate; the right to assume parenting rights for children who are brought in to a family through birth, adoption, surrogacy or other means; family-related Social Security benefits, income and estate tax benefits, disability benefits, family-related military and veterans benefits and other important benefits; the right to inherit property from a spouse in the absence of a will; the right to purchase continued health coverage for a spouse after the loss of a job.

When making this point, many times I have heard opponents say that these rights can be obtained in other ways besides marriage. Some of them can, at a cost, with enough legal help, but many cannot.

I want to return briefly to the role of marriage in protecting children because, contrary to the opponents of same-sex marriage and civil unions, I believe that this is a powerful argument in favor of marriage recognition for same-sex relationships. There are over 1 million children being raised in gay and lesbian families in the United States. These children do not have the same legal protections as children of opposite-sex married couples have, and their parents have significantly increased financial burdens in providing for them.

The rights of gay and lesbian and transgendered Americans have been at the center of a national debate for the past decade and more. Attitudes have changed dramatically, as more and more Americans have discovered that their friends, their neighbors, their coworkers, family members are gay or lesbian and that they are just like other Americans, with the same hopes, dreams, fears, the same challenges. I believe our country has taken major steps forward toward the American ideal that all people are created equal.

Mr. Speaker, change is never easy. Some people push for change with all their might, while others struggle to maintain the status quo. Most of the others are somewhere in between, trying to apply their competing values to assess the merits of change. Our political leaders can try to facilitate this debate and discussion and work towards consensus or they can exploit those tensions and fears to divide America.

I firmly believe that too many of our leaders have decided to use this issue to polarize Americans in order to win this election, and this is wrong. Today, we must reject this attempt to use the Constitution of the United States simply as a wedge issue to win an election.

Bringing this issue to the forefront now, five weeks before the election, with no chance to pass it in this House, accomplishes only one thing. It distracts the American people from the urgent issues and immediate policy decisions that are at the heart of this election.

Each hour this Congress spends on a constitutional amendment that will divide America, we are not working to help provide health care to the 45 million Americans who have no health insurance. Each hour this Congress spends on a constitutional amendment that will divide America, we are not working to help the millions of unemployed and underemployed Americans.

These must be our priorities, not writing discrimination into the Constitution of the United States.

I implore my colleagues to vote ''no.''

Mr. DELAY. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Speaker, I appreciate the opportunity to address this issue.

Is it a blatant attempt by Republicans to score political points in a political season? I am sorry, but it was

not the Republicans who brought up the Massachusetts Supreme Court decision on May 17. We have very little influence in that particular matter.

From my friends on the other side of the aisle who declare to us that amending the Constitution is just the extension of rights, I would remind them that the Dred Scott decision that said that slavery is correct and proper for these United States was, in fact, turned around in a very similar situation that we are facing today.

A Supreme Court is positioning itself to declare a certain thing which is in opposition to the will of the majority of the people, and we are simply going to turn that around with a constitutional amendment, the same as the Thirteenth Amendment turned around the Dred Scott decision of the Supreme Court.

Now for the discussion about what this is really about. Once we leave the discussion of what is right for children as the heart of the discussion, we begin to get confused about what is right. When we talk about the fact that there are loving, gay couples who would like to raise their children, we seem to depart from the facts because only one out of three lesbians living in the same household are actually raising children, and among gay men, only one out of five.

This issue is not about the right to raise children. This issue is about their rights to redefine marriage for the entire Nation, and I will disagree with my friends on the other side of the aisle that it is worth fighting for right now. It is worth fighting for in this House, and it is worth fighting for on the streets of America so that we have this national public discussion to determine what is most effective for our children.

If we want examples, we can look to Scandinavia where more than 60 percent now of the children are born out of wedlock, just a few short years after they have taken the same step that we are taking here.

This discussion is about what is right for children. It has nothing to do with what is right for adults. How can we say that the rights of adults to choose their desire is more important than what is necessary to correctly and properly raise our children? What is right for our children is a discussion.

Mr. CONYERS. Mr. Speaker, I yield 4 minutes to the gentlewoman from California (Ms. LOFGREN) who has been of immeasurable assistance on constitutional questions in our committee.

Ms. LOFGREN. Madam Speaker, the Republican leadership has put us on notice that Congress will probably adjourn next week until after the November elections. We should have done so much more this year. Yet, this week, Republican leaders have decided to bring to the floor a constitutional amendment banning gay marriage and a bill to repeal gun laws in the District of Columbia. Are these really the most important issues facing the Nation?

Earlier this month, the Republican leader, the gentleman from Texas (Mr. DELAY), said that he would not allow a vote to continue the assault weapons ban because it did not have the votes. When asked about scheduling a vote, he said the following, ''If the President asked me, it would still be no . . . because we don't have the votes to pass an assault weapons ban, and it will expire Monday and that's that.''

Despite the overwhelming support of Americans everywhere, he let the assault weapons ban expire.

Apparently, the gentleman from Texas (Mr. DELAY) only brings things to a vote when he has the votes. But wait, this week the gentleman from Texas (Mr. DELAY) has taken a different position on what he brings to the floor.

In Roll Call, he acknowledged he does not have the votes to pass the marriage amendment. This amendment will not pass the House, and it did not even a get a simple majority in the Senate earlier this year. This amendment is going nowhere.

Let us be clear. The only reason this bill is being considered today is to score political points a month before the election. I am not surprised in the least that the Republicans would put politics before solutions. What is shocking is that we would waste time on these political games when they have accomplished so very little this year.

Earlier this month, the CBO released its update and confirmed that the 2004 deficit will be the largest in history, $422 billion. This $818 billion deterioration from the $397 billion surplus that they inherited when President Bush took office is just a shame.

□ 1430

And what have the Republicans done to bring the deficit under control? Absolutely nothing. As a result of their policies, and for the third time in 3 years, Republicans need to increase the debt limit once again. What have Republicans done about this, the national debt? Nothing. The list goes on and on.

The Republicans never passed a 2004 budget. The fiscal year ends tomorrow, yet we have only done one of our 13 appropriation bills. The 9/11 Commission report was released in July. It has been 71 days, and the House and Senate have still not voted on its recommendations.

We have not passed a transportation reauthorization bill since January 2001. We have lost 1.7 million private-sector jobs. And for the third year in a row, the number of Americans without health insurance has gone up. Medicare premiums are as high as they have ever been. We have more people in poverty this year than we did when Bush assumed the Presidency.

The Republicans control the White House, they control the House of Representatives, and they control the Senate. They control everything in Washington. Despite all these advantages, all of this power, they have no accomplishments. All they can do is play political games to hide their truly abysmal record and hope that the American people do not notice.

The House Republicans have controlled Congress for a decade. On January 4, 1995, the day I was first sworn in, moments before being sworn in, then Speaker Newt Gingrich told the Members of the House that we were hired to do a job, and we have to start today to prove we will do it. Well, the Republicans have had 10 years, and just look at the dismal record. They have proven they just cannot do this job. It is time for a change. House Democrats are ready to get to work.

Mr. DELAY. Mr. Speaker, may I inquire as to the time on each side?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Texas (Mr. DELAY) has 55 minutes remaining and the gentleman from Michigan (Mr. CONYERS) has 53 minutes remaining.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. CARTER), a former judge.

Mr. CARTER. Mr. Speaker, today, we gather in this honorable chamber, and as we gather, there is an attack taking place on the basic building blocks of our society, the traditional family. Since the dawn of civilization, a family has consisted of a union between a man and a woman. In a civilized society, that union has historically been joined through a legal process we call marriage.

Mr. Speaker, you can go anywhere on this earth or here in the United States and wake somebody up from a dead sleep and ask them to define marriage, and they will tell you that it is a union between a man and a woman. Yet, today, we are dealing with living with a court ruling by the Supreme Judicial Court of Massachusetts which tosses aside the history of traditional marriage.

This judicial activism, better called social engineering, flies in the face of legal precedent, and as The Washington Post shockingly stated, ''is done by judicial fiat.'' Not a single State of the 50 States in this union have any legislation or a constitutional amendment which changes the definition of marriage. This assault on traditional marriage continues as legal challenges are joined in most all the States of this Nation.

Mr. Speaker, I have had the dubious distinction of having presided over the dissolution of 20,000 marriages in my career of public service. I would venture to say that is more than anyone else in this House. I have listened to thousands of hours of testimony about the damage that can be done by the breakup of marriage to the children of our Nation. It is a shame that we have to go through this attack on marriage, but to add a further attack on marriage by redefining the definition of marriage would be an abomination to our children.

For those who say, let the States choose, I would point out that the

amendment will be required to pass three-fourths of the States, so it is up for debate in the States of this union. The Bill of Rights amendments were ratified precisely to make sure that fundamental principles were explicitly laid out in our constitution. The marriage protection amendment would explicitly protect the institution of marriage before the courts so that we will not be socially engineered out of our rights as American citizens and to destroy traditional marriage.

Mr. CONYERS. Mr. Speaker, 4½ minutes to the gentleman from New York (Mr. WEINER), the honorable Member who serves on the Committee on the Judiciary with great skill and distinction.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. WEINER. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, I wanted to ask the previous speaker, who said he had presided over the dissolution of 20,000 marriages, I just wonder, in how many of those was the cause of the dissolution some gay relationship?

I mean, I am prepared to own up when I am at fault. Am I responsible, as a gay man, for any of those 20,000 dissolutions? The gentleman said there were 20,000 dissolutions. Would he tell us in how many of those 20,000 dissolutions was the existence of a gay marriage or gay civil union the cause?

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. WEINER. I yield to the gentleman from Texas for a response.

Mr. CARTER. About a half a dozen. But that was not the issue I was talking about.

Mr. FRANK of Massachusetts. A half a dozen out of 20,000.

Mr. CARTER. If I have the floor, and I might speak, my point was the damage that the dissolution of marriage causes to the children of this marriage. I said nothing about gay marriages in my speech whatsoever.

Mr. FRANK of Massachusetts. I apologize. If the gentleman would continue to yield briefly.

Mr. WEINER. I continue to yield to the gentleman from Massachusetts, Mr. Speaker.

Mr. FRANK of Massachusetts. I apologize for assuming that the gentleman was referring to gay marriage. This is a debate about gay marriage. So when the gentleman talked about the dissolution of 20,000 marriages, I made, apparently, the incorrect inference that there was some relationship between what the gentleman was saying and the subject under suggestion. I withdraw the inference.

Mr. CARTER. Mr. Speaker, if the gentleman will continue to yield.

Mr. WEINER. Mr. Speaker, I am going to reclaim my time, since the gentleman is not referring to gay marriage, and that is what this very important debate is about.

Mr. Speaker, I have heard a great deal on this floor about the message we send our children, and we have different interpretations about what this debate means to our children. One thing I would urge my colleagues on the other side not to do is not to tell your children you are being conservative by supporting this. Conservative values, as I understand them, means not taking government and sticking it into every relationship and into every corner of someone's personal life, like you seek to do with a woman's right to reproductive freedom and like you seek to do with the most intimate of relationships today.

Certainly, do not tell them that you are passing laws in this body to protect them. That you should not tell the children when you have passed laws to weaken water standards, weaken clean-air standards and to underfund education. So when you are talking to your children, do not tell them that.

Certainly, do not tell them that you are being consistent, because many of the folks on the floor here are the strongest supporters of the Defense of Marriage Act, yet in the Committee on the Judiciary and on this floor over and over, when challenged as to its constitutionality, say, oh, absolutely; absolutely, it is constitutional. It has not even been struck down and already you are running away from your interpretation of DOMA. So do not tell them you are being consistent.

And certainly, do not tell them that you are being honest, because if you were being honest, you would not lie to them and tell them that you are doing anything to amend the Constitution today. The Senate has already defeated this. If you are going to be honest with them, you are going to have to tell them what you are doing is simply posturing. So, certainly, do not tell them you are being honest.

What you are doing is teaching them to hate. You are teaching them that the Constitution is the place you remove rights, not protect them. That, I think, has been a consistent theme of this year's session. So, perhaps, in that case, you are being consistent in using the Constitution that way.

And I have to tell my colleagues, there are so many people who hang their heads today when talking about their grandparents who served in this august body. They hang their heads when they talk about their grandfather who stood up on the floor of the well and argued in favor of slavery. They are embarrassed by that.

There are so many who hang their head when they talk about their grandfather who served in this august body and fought for denying the rights of women. They are embarrassed by that.

Why is it that you think your grandchildren will not some day grow up and be telling their children about granddad or grandmom and have to be embarrassed about this debate; have to be embarrassed and ashamed by the idea that you, their grandparents, God willing, they are able to tell the story and how embarrassed they will be? Will they be embarrassed like those who have to talk about their grandparents who voted to support slavery or voted in support of rounding up Americans and putting them in internment camps?

I hope that that is not the case. If you are concerned about what you will tell your grandkids, be more concerned about what they will tell their grandkids about you.

Mr. DELAY. Mr. Speaker, I yield myself such time as I may consume to just mention that we are talking about marriage. I know some think this is a debate or a constitutional amendment on gay marriage and same-sex marriage. No, we are talking about marriage and the definition of marriage. That is what this debate is about.

Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, I am not embarrassed to say I stand here on behalf of tens of thousands of families in the Eighth Congressional District in strong support of the marriage protection amendment.

I believe the institution of marriage is a sacred union. It predates Congress and the constitution. Marriage is not simply a legal contract. For all its flaws, it is a covenant that truly binds individuals and families to each other and has, for centuries, provided social stability, not only for our country but for our culture.

Marriage matters. It matters to the American people. It matters to our children, and it matters to our Nation's future. Because strong families foster strong morals and a strong Nation to go with it.

As for those who say this is no business of Congress, I strongly disagree. Our Founding Fathers and mothers may never have imagined this debate today, but they created the thoughtful process for the American people to decide such matters of importance.

And make no mistake, the definition of marriage will be defined. The only question today we are debating is by whom, the unelected justices of the Federal courts or the American people? So you decide, who do you trust to decide this nation-changing decision? I have faith in the American people.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Oakland, California (Ms. LEE), who replaced our good colleague Ron Dellums, an activist in domestic and international matters.

Ms. LEE. Mr. Speaker, I want to thank the gentleman for yielding me this time and for his tireless efforts on behalf of civil liberties and civil rights for all Americans.

This is a very mean-spirited and divisive constitutional amendment, and it is just plain wrong. It would take everything this Nation stands for, as a beacon of hope, as a land of opportunity and a tolerant Democratic society, and really just turn it all on its head. Government should not be in the business of passing constitutional

amendments to discriminate against anyone.

In an election year, with so much at stake, this amendment is clearly a ploy to divide the country's focus from the real issues, and I say, do not be fooled. There are far more important issues facing our Nation this year that this administration and Republican-controlled Congress refuse to debate and which have far greater impact on our country than this issue of a constitutional amendment.

In my district, the Ninth Congressional District of California, six members of the clergy, six members of the African-American clergy, led by a great religious leader, the Reverend J. Alfred Smith, Sr., Senior Pastor of the Allen Temple Baptist Church, addressed this very issue. In this open letter, published in the Oakland Tribune, they characterized the intent of this amendment to disrupt the peace and good will of many in both the secular and religious communities.

They continued, ''whatever your personal opinion is regarding same-sex marriages, ask yourself this litany of questions.'' They said: ''Can America survive if she continues unilateral warmaking in a time that calls for international peace-seeking collaboration?'' ''Can the American common people, whom we serve as clergy, survive the diminishing resources for public education and health care?'' They ask the question: ''Can the American image survive the rejection of global treaties and environmental controls?'' They said: ''Is it liberty and justice for all Americans when preferential treatment is given to the wealthy and select corporations?''

Mr. Speaker, the answer to all of these questions is no. So I strongly urge my colleagues to vote ''no'' on this cynical and divisive attempt to legitimize discrimination in our most important secular, mind you, our most important secular, not religious, document, the Constitution.

Mr. Speaker, I submit for the RECORD the open letter published in the Oakland Tribune, which I earlier referred to:

HERE WE STAND

In a democracy each citizen is given freedom of speech. No one is to be condemned for being Democratic or Republican, conservative, moderate, or liberal. Most recently, twenty African American Clergy exercised freedom of speech at a press conference. These ministers stated that they were working to elect President George W. Bush for a second term of office as President. These Pastors spoke not for their Churches but they as individuals exercised their American privilege and democratic right as citizens.

As a result of their exercise of free speech, conflict and controversy have disrupted the peace and goodwill of many in both the secular and religious communities. There are those who believe that there would have been no hatred and hostility if those Ministers would have not stated that their reasons for supporting electing Mr. Bush to a second term was not tied to the divisive issue of same sex marriages. The AIDS activists responded to the press conference by saying the Ministers have harmed future funding for the fight against the spread of AIDS.

We are calling all of us to relate to each other with mutual respect for each other so as to allow us to differ logically and humanely on the issues. A Caring and compassionate number of African American clergy do not support President George W. Bush for re-election, but they support traditional family values while promoting ministries to decrease and spread of AIDS. These Pastors teach and preach against racism, sexism, ageism, classism, and homophobia. No one can place all African American Ministers into a single theological, ideological or political camp.

We encourage you to investigate the larger and more far reaching implications of the upcoming presidential race. In addition to whatever your personal opinion is regarding same sex marriages, ask yourself this litany of questions. Can America survive if she continues unilateral war making in a time that calls for international peace-seeking collaboration? Can the economic infrastructure of city, county, state and the nation survive continuous lavish investment in the military? Can the American common people whom we serve as clergy persons survive the diminishing of resources for public education and health care? Can the American image survive our rejection of global treaties and environmental controls? Is it liberty and justice for all Americans when preferential treatment is given to the wealthy and select corporations? Should not all Americans seek an administration that will protect our freedoms against punitive patriot legislation while defending America from our enemies? Last, but not least, we do not give our souls to any imperfect human made political system. When the Kingdom of God comes, we do not believe it will arrive on the wings of Air Force One. We are committed to the principles of compassion, courage, and critical thinking in leading a People whose purpose driven lives elevate principles of ethics far above the perils of political expediency.

Bishop Bob Jackson, Acts Full Gospel; Bishop Ernestine Reems, Center of Hope; Reverend Joseph Smith, Pastor, Good Hope Baptist Church and President, Bay Cities; Baptist Minister's Union; Reverend Lloyd Farr, Pastor, New Bethel Missionary Baptist Church, and President, Baptist Minister's Union; Dr. Frank Pinkard, Pastor, Evergreen Baptist Church; Dr. J. Alfred Smith, Sr., Senior Pastor, Allen Temple Baptist Church.

Mr. DELAY. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I appreciate the opportunity to rise today in support of the marriage protection amendment, which is before the House today. Over the past several years, the traditional family has been under attack. The survival of the American family is of crucial importance because it serves as the backbone to our Nation as the primary protector and educator of our children.

Studies overwhelmingly suggest that children have a greater chance at success in life when a mother and a father are both present in the home. It is true that the recognition of the family unit has been traditionally a State issue. In fact, in my home State of Georgia, we will have a direct voice this November 2. In Georgia, we will vote yea or nay on a constitutional amendment banning so-called same-sex marriages.

□ 1445

However, with the recent onslaught against the traditional family in the courts, I believe it is now time for the Federal Government to act decisively as well.

Mr. Speaker, 44 out of 50 United States have already enacted laws that identify marriage as a union of a man and a woman, mother and father. Yet activist judges who look to enforce their own personal views continue to strike down laws passed by State legislatures and approved by our constituents. In fact, over 60 percent of the American people agree we need a Federal constitutional amendment. The citizens of the United States, our constituents, want us to support traditional marriage between one man and one woman. They do not want a court to decide the definition of marriage.

Therefore, if we do not pass a constitutional amendment on the Federal level, federally appointed judges will make their own definition without a single vote by the American people or their representatives. I believe this body has an important decision to make, a decision that is obviously a major concern to the majority of the American public.

To illustrate this, as of this morning, over 2,600 constituents from Georgia's 11th Congressional District have written to me in favor of this amendment. They have voiced their concerns to me, and I believe they are right, and I strongly urge Congress to pass the marriage protection amendment.

As far as the gentleman from the other side of the aisle who questioned what our grandchildren will think of their grandparents some day, my four grandchildren will say thank God their granddad stood up for their moms and dads for the passage of this constitutional amendment.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). The Chair would admonish guests in the gallery that they are here as guests of the House, and are not to show approval or disapproval for remarks on the floor.

Mr. CONYERS. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE) who has worked on civil rights and constitutional matters with great skill ever since she has come to this Congress

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished ranking member for his continued service to America.

I thought I would take just a moment to move this debate to the document which we are attempting to amend, and that is the Constitution. As I arrived on the floor of the House, I was listening to one of the speakers mention that the concept of marriage is embedded in the Constitution of the United States. I took a moment, as I

listened and reflected on the various voices that have been raised, because this is a constitutional debate that heretofore would take numbers of days because we would be serious about amending the Constitution.

But I came upon article IV that talks about full faith and credit shall be given in each State by the public acts, records, and the judicial proceedings of every other State, and so I do not understand the argument that is being made by my friends on the other side of the aisle, and I take issue in that because there will be different voices raised from both sides of the aisle. This is a constitutional question. This is a debate for all America, no matter what political hat one may be wearing.

But I come upon the first amendment that clearly distinguishes and says that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

I stand before Members to respect and acknowledge the faith community and the definitions they may give to unions of human beings and people in the United States. But I again remind my colleagues that this again is a secular Nation. Embedded in the Constitution is our right to freedom of religion, but it indicates very specifically that we are to designate no particular religion for this Nation.

As a southerner coming from the State of Texas, I stand before you with great jeopardy because the predominant individuals in my community do speak as others have already spoken; however, I would be incensed if anyone was to define the gentlewoman from Texas (Ms. JACKSON-LEE) or any of us who hold this Constitution dear, as someone who would fall over to the comfort zone where you would be patted on the back and praised and given all kinds of accolades because you decided to stand against a justice system that allows people to be human and dignified and equal in this country. I refuse to do that.

I might offer to Members that I spent some time finding myself on the wrong side of the majority of the people of the United States of America. The good news is that those of us who have done that wake up every morning feeling good because we have slept well. The impeachment we went through in 1998, I am reminded of that room when everybody thought this was the way we should go, and I frankly believed, as many of my colleagues who joined us believed, that the Constitution at the time must prevail.

So let me share some words during a very difficult time in America, and that was the civil rights movement first, but the Civil War in the 1800s when this country was divided both in terms of individual family members and States. It was a time when people were trying to find some way to preserve the Union. Daniel Webster stood on the floor of the United States Senate and stated, ''Mr. President, I wish to speak today not as a Massachusetts man, not as a northern man, but as an American and a Member of the Senate of the United States. I speak today for the preservation of the Union.''

So I speak today for the preservation of the Constitution of the United States of America. It troubles me that even though we can find ways to divide over many, many issues, it troubles me that we do not embrace the respect and the understanding of the freedom of the religion.

I also offer to say that Daniel Webster made it very clear that we must work in order to preserve not only this Union, and he said ''Instead of dwelling in those caverns of darkness, let us enjoy the fresh air of liberty and union.''

Let us enjoy the fresh air of liberty and the understanding that this constitutional document would protect any American who would fall on the minority side of a cause. If it is not you today, it may be you tomorrow.

For us to have a constitutional amendment that takes this document and make mockery of it, it has served us well. There is not a page or line or sentence in this document that undermines the human dignity of anyone. I welcome the clergy, and I would go to pray and sit with them and discuss with them their beliefs as I respect them, as I respect all of our beliefs. But who are we as a Nation if we are promoting democracy in the very bottom of the insurgency of Iraq and Baghdad, and we would stand today to deny the constitutional understanding that says we all are created equal. This document stands to the living testament that whoever you are in this Nation, you have freedom under this Constitution.

Mr. Speaker, I ask my colleagues to defeat this amendment because it is unjust and it is not befitting of these United States of America and those of us who desire to preserve the Union and the Constitution, realize that this amendment does not promote freedom of religion or the sanctity of our Constitution.

Mr. Speaker, this resolution is the symbol of misplaced priorities. As my colleague from California eloquently enunciated during a Judiciary Committee markup of the ''9/11 Recommendations Implementation Act,'' H.R. 10 yesterday, it is unfathomable that we rushed through the consideration of that very important legislation so that we could debate this unnecessary proposal. Whether same-sex unions negatively affect our traditional notions of marriage will not make a difference to the families of 9/11 victims. Our first responders will not get the needed funding to prepare for imminent attacks as a result of swift passage of the Federal Marriage Amendment. This debate is ridiculous and will not help the American people.

I oppose this bill. H.J. Res. 106, the ''Federal Marriage Amendment,'' proposes to assert Congress' opinion on the lives of all Americans on matters that concern their personal lives, their family relations, and their very identity.

This Constitutional amendment is not necessary and therefore should not be transmitted to the Committee of the Whole with a rule that restricts the voices of the members who function as one of the few voices that the Nation will have on its future.

TENTH AMENDMENT

The 10th Amendment states: ''The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.'' This amendment was the basis of the doctrine of states' rights that became the antebellum rallying cry of the southern states, which sought to restrict the ever-growing powers of the federal government. The principle of states' rights and state sovereignty eventually led the southern states to secede from the central government that they believed had failed to honor the covenant that had originally bound the states together.

In this case, the individual states need to have the ability to differ with the federal government in an area that relates to what goes on in the homes of individuals.

FULL FAITH AND CREDIT

In 1887 the court told us that ''Without doubt the constitutional requirement, Art. IV, § 1, that 'full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State,' implies that the public acts of every State shall be given the same effect by the courts of another State that they have by law and usage at home.'' *Chicago & Alton R.R.* v. *Wiggins Ferry Co.,* 119 U.S. 615, 622 (1887).

The proposal in H.J. Res. 106 will overturn Wiggins Ferry, and all other supreme court jurisprudence that have pronounced what the Framers of the U.S. Constitution intended in drafting Article IV, § 1.

EQUAL PROTECTION OF THE LAW

Gay and lesbian Americans are American citizens who pay taxes and protect our communities as fire fighters, police officers, and by serving in the military, and therefore desire the same rights and protections as other Americans.

Denying gay and lesbian couples the right to engage in a union equals a federal taking—legal rights in pensions, health insurance, hospital visitations, and inheritance that other long-term committed couples enjoy.

As Members of Congress with the authorities vested in us as a body, we have a responsibility to deal with issues that need attention. There is no emergent need relating to individual well-being, national security, or any other government interest that warrants a constitutional amendment for this purpose. This is a waste of the taxpayer's dollars. This amendment takes away existing legal protections, under State and local laws, for committed, long-term couples, such as hospital visitation rights, inheritance rights, pension benefits, and health insurance coverage among others.

Under current law, marriage is a decision of the State. As marriage was initially tied to property rights, this has historically always been a local issue. The State gives us a marriage license, determines a couples' tax bracket and authorizes its divorce. It does not need additional control over the situation. Religious conceptions of marriage are sacrosanct and should remain so, but how a State decides to dole out hospital visitation rights or insurance benefits should be a matter of State law. As legal relationships change, laws adapt accordingly.

Matters of great importance, such as marriage, need to reflect the will of the people and be resolved within the democratic process. By having Congress give the States restrictions initially, we are denying them the chance to let their constituents decide what is best for them. We cannot use the Constitution as a bullhorn to dictate social policy from Washington.

We are fighting global war on terrorism, we are still recovering from the greatest attack on American soil and we are working to create alliances around the world. We have men and women overseas who are giving their lives to see freedom in Iraq. We have troops in Afghanistan that are still trying to set up a functioning democracy in Kabul. Why are we wasting time on the house floor, in our legislative offices and with our valuable staff to handle this ludicrous amendment?

This proposed amendment will forever write discrimination into the U.S. Constitution rather than focusing on the crucial problems and challenges that affect the lives of all of us. At a time of record high unemployment, diminishing job prospects, a ballooning budget deficit that is choking our economy and crucial social service programs, a public school system that is in great need of attention and a health care system that is failing over 43 million Americans that remain uninsured over the past 3 years. This discriminatory constitutional amendment is nothing more than a political distraction for the country to divert attention from the overabundance of real problems and our tremendous lack of effective solutions.

VIOLATION OF PRIVACY

Our civil liberties are based upon the fundamental premise that each individual has a right to privacy, to be free from governmental interference in the most personal, private areas of one's life. Deciding when and whether to have children is one of those areas. Marriage is another.

In 1965 the Supreme Court ruled in Griswold v. Connecticut that a married couple had the right to use birth control. In doing so, the Court recognized a "zone of privacy" implicit in various provisions of the Constitution. Most recently, the Supreme Court struck down a law criminalizing sex between same-sex couples in Lawrence v. Texas based upon these same principles.

Indeed, Lawrence relied principally on Griswold, Eisenstadt and Roe v. Wade. Collectively, these decisions recognize the fundamental principle that the Constitution protects individuals' decisions about marriage, procreation, contraception and family relationships. The issues are inextricably linked—in law as well as policy.

THERE IS NO VALID NEED TO AMEND THE CONSTITUTION

Amending the Constitution is a radical act that should only be undertaken to address great public-policy needs. Since the adoption of the Bill of Rights in 1791, the Constitution has been amended only 17 times. Moreover, the Constitution should be amended only to protect and expand, not limit, individual freedoms. By contrast, the Federal Marriage Amendment is an attempt to restrict liberties, and on a discriminatory basis.

DEFENSE OF MARRIAGE ACT ALREADY EXISTS

The Defense of Marriage Act, which President Bill Clinton signed into law in 1996, already exists and recognizes marriage as a heterosexual union for purposes of federal law only. DOMA was designed to provide individual states individual autonomy in deciding how to recognize marriage and other unions within their borders. This allowed legislators the latitude to decide how to deal with marriage rights themselves, while simultaneously stating that no state could force another to recognize marriage of same sex couples. For those who want to take a stance on marriage alone, DOMA should quell their fears. We do not need additional, far reaching legislation.

FMA WILL NOT CHANGE VIEWS ON SAME SEX MARRIAGE

The Federal government cannot use its influence to change people's minds about a social issue. it did not work in the 1920s with the 18th amendment declared alcohol to be illegal and it did not work in the 1960s when interracial marriage was still considered a crime. This amendment will not change the lives of those who want to live as a married couple, all it will do is take away their license to do so.

THIS WILL CLOG THE JUDICIAL SYSTEM

The FMA is a lawyer's dream and a judge's nightmare. The number of cases that will flood the system will be outlandish. Does the FMA retroactively invalidate all marriages that have occurred in the interim? If a spouse has died, how does the retroactive annulment affect custody of the children, or property rights? There will be a litany of case law brought to deal with these questions, and our judicial system will be filled with cases trying to sort out the lasting effects of the FMA.

THIS IS LIKELY TO FAIL

Amending the constitution is not a simple thing, and should be done with care and caution over a long period of time. Our haste in this matter will be the tragic flaw of FMA's journey. Recent polls show that a majority of people who oppose gay marriage also oppose amending the constitution to ban them. Even if the Bush administration can whip enough votes to pass this through both chambers, it is highly unlikely that 35 states would approve it.

FMA DOES NOT HELP FAMILIES

Many of my colleagues are arguing that FMA is here to protect the family. Spending time and resources to amend the constitution to prevent gay marriages is not helping a single family. Divorce, abuse, unwed motherhood and unemployment are doing far more harm to millions of families everywhere. To those who are taking up the cause to protect American families, perhaps your attention could be focused elsewhere on the problems which are truly plaguing them.

The vocal proponents of the FMA show their strong and willful hatred of the gay and lesbian community. This egregious amendment would enshrine discrimination against a specific group of citizens and intolerance of specific religious beliefs into our Nation's most sacred document. The fight for equality is uniquely woven into our Nation's history. From the suffrage movement, to the civil rights movement, to the gay rights movement, minorities in this country have worked tirelessly to achieve the equal rights guaranteed.

THE LEGAL INCIDENT OF MARRIAGE WARRANTS A LICENSE

There are a multitude of critical protections needed for same sex couples and their children. These legal incidents include rights related to group insurance, victim's compensation, worker's compensation, durable powers of attorney, family leave benefits and a joint tax return. These benefits are necessary for families to function. Legal status is truly a license that extends rights, it should not be denied to one group of people—otherwise, this body will be guilty of legislating in violation of the Equal Protections Clause of the Constitution.

Mr. Speaker, again, I urge my colleagues to defeat this resolution, and I urge this body to preserve the Constitution for the document of equality that it is—vote "no."

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. NEUGEBAUER).

Mr. NEUGEBAUER. Mr. Speaker, I rise today in strong support of the marriage protection amendment. This bill could also be called the family protection amendment. It could be called the child protection amendment because it is the best environment for our children's future. It is one that arises out of a marriage between one man and one woman.

It is unfortunate that we have come to this point where Congress must step up and amend the United States Constitution in order to protect marriage in our country. However, the circumstances presented to us today leave us no choice but to do so. I want to ensure that the citizens of our Nation make this decision directly through their elected officials and their vote, and not by unelected Federal judges. I want my fellow Texans, not a Federal court, to decide what marriage is in our State.

In 2003, the Texas legislature passed a law defining marriage as a union between a man and a woman. The 1996 Defense of Marriage Act does not compel Texas to recognize same-sex marriages authorized by other States, and I support that law. However, the law does not keep same-sex couples with marriage licenses issued in other States from moving to Texas and suing to have their union recognized as a marriage in Texas.

Would a Federal court or a Supreme Court uphold DOMA in this case? We do not know that. But what we do know based on recent history, the indication is that it is a safe bet that appointed judges and not the American people may make that decision. The situation I just described is not an imagined one. It is a reality in 11 States that are currently facing legal challenges in their States. Judges in these cases, not the people, will be able to define marriage. Mr. Speaker, this is not how our system of government was designed to work.

To date, people across 44 States have spoken. They have sent the message that they believe marriage should consist of a union of a man and a woman. This represents 88 percent of our States.

Mr. Speaker, in closing, it is not just what I am saying, but the children also know what the definition of marriage is.

Mr. CONYERS. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. HOYER), a longtime civil rights and human rights advocate.

Mr. HOYER. Mr. Speaker, let me say that I support the traditional definition of marriage as a union between a man and a woman. I voted for the Defense of Marriage Act in 1996, but I believe, like Vice President CHENEY, that this is an issue that should be regulated by the States, as it has been throughout the history of this great Nation.

In fact, Mr. Speaker, the chair of the House Republican Policy Committee, the gentleman from California (Mr. COX) stated on Tuesday in the Wall Street Journal and I quote, ''The Federal marriage amendment would do more harm than good were it to be enshrined in our charter.'' That is the statement of the chairman of their policy committee.

Through their legislatures and courts, the States have proven quite capable of determining the legal definition of marriage. I believe the proper venue to consider decisions affecting this issue is in State courts and legislatures, and yes, with the people of the individual States. Thus, I oppose this constitutional amendment which is, at its core, based on intolerance and is a patently obvious effort to energize a part of the Republican Party's base and inflame the passions of others.

None of us should ignore the Republican majority's real intent here today. This constitutional amendment represents the perfect marriage of raw political cynicism and distraction. Everyone in this Chamber understands that this amendment is not going to pass. In fact, the gentleman from California (Mr. COX) said again in the Wall Street Journal, ''The Federal marriage amendment is more symbol than substance given the near impossibility of a two-thirds vote.''

Even the majority leader himself acknowledged as much this week, telling Congress Daily, ''I think it is really important to put Members on the record, particularly before an election.'' Orval Faubus would have agreed with that; George Wallace would have agreed with that; Lester Maddox would have agreed with that.

The majority leader's decision to move this amendment to the floor just 7 months after stating that it was unlikely to be considered this year is more than ironic, it is patently political. The purpose in bringing this amendment to the floor today, just 4 weeks before the election, is to create the fodder for a demagogic political ad that appeals to voters' worst fears and prejudices rather than, as we should do, to their best instincts.

Finally, Mr. Speaker, given that this amendment is not going to pass, it is nothing short of amazing and irresponsible that we are spending time debating this issue on the floor today.

□ 1500

Again as our colleague from California (Mr. COX) pointed out, there have been more than 130 amendments to the Constitution proposed in our history regarding marriage. The gentleman from California pointed out not one of those amendments has ever been voted on in either House because the leadership in those houses over those years thought those 130 amendments did not belong on the floor. How sad it is that we do not have that kind of leadership today.

At midnight tonight, my colleagues, the new fiscal year begins. How many of 13 must-pass appropriation bills have passed? One. Mr. Speaker, the Republican majority's legislative malfeasance is on full display today. The appropriations process is in meltdown. This Republican Congress has failed to enact a budget, failed to enact intelligence reform, failed to enact energy reform, failed to enact the reauthorization of the highway bill, failed to enact the reauthorization of the Higher Education Act. The list goes on and on. Yet with all that outstanding legislation, with all of America's business bottled up and pending, we consider a constitutional amendment that the chairman of the policy committee on the Republican side says will not pass. How patently political today is.

Mr. Speaker, this Republican majority has failed. The American people deserve better. I urge my colleagues to vote against this amendment.

Mr. DELAY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Speaker, I want to thank our majority leader for his leadership on this issue. It is an honor for me to stand here with my colleagues today to protect marriage. To my colleagues who oppose this amendment, they want to argue that marriage is a right that should be extended to relationships beyond those of one man and one woman. They want to claim that the effort to protect marriage is about discrimination.

Mr. Speaker, I have a statement I want to enter into the RECORD. It is from one of Boston's most respected African American leaders, Reverend Richard Richardson of the St. Paul African Methodist Episcopal Church, standing in support of marriage, working to help protect marriage.

The statement is as follows:

''As an African-American, I know something about discrimination. . . . The traditional institution of marriage is not discrimination. And I find it offensive to call it that. Marriage was not created to oppress people. It was created for children. It boggles my mind that people would compare the traditional institution of marriage to slavery. From what I can tell, every U.S. Senator—both Democrat and Republican—who has talked about marriage has said that they support traditional marriage laws and oppose what the Massachusetts court did. Are they all guilty of discrimination?''

Mr. Speaker, there is an emotional appeal to their arguments, but we are not here to legislate on emotion, and this is not comparable to the civil rights movement. We are here today, Mr. Speaker, because logic, because reason, because experience tell us that marriage is something that is worth preserving and protecting. Despite what some of my colleagues will say, we are not here for malicious purposes. We are here to ensure that our marriage laws protect an institution that is part of the bedrock fiber of our society.

To determine whether or not a law is discriminatory, you have got to have an understanding about something of the purposes of that law. Is Social Security age discrimination because only people of retirement age are affected by that? Of course not. Similarly, common sense, experience, and social science will tell us that the purposes of our marriage laws are neither ugly nor invidious.

Marriage is a social institution. Individuals freely decide to enter marriage, but they do not have a right to redefine its basic nature because they disagree with our shared American understanding of what marriage is. They do not have that right any more than an individual can privately redefine the meaning of other basic social terms like ''property'' or ''democracy'' or ''church'' or ''corporation.''

A vote for this amendment is a vote to preserve and protect an institution that is critical to the well-being of American families and children. Mr. Speaker, today we are going to stand with a basic element of our society. We have an obligation to preserve it.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 4½ minutes to the gentleman from Massachusetts (Mr. FRANK), a distinguished member of the Committee on the Judiciary now on leave.

Mr. FRANK of Massachusetts. Mr. Speaker, consistently proponents of this amendment have tried to hide what it does. Yes, there is a question about what one State could be compelled to do by the Federal courts to respect another. If that were the problem, an amendment could come forward aimed narrowly at that. I would not support it. But an amendment that said the full faith and credit clause does not apply could have come forward. This amendment goes far beyond that. But the proponents of it apparently understand how indefensible it is in the very democratic terms which they use, and therefore they conceal it from the people, speaker after speaker after speaker.

I hope the majority leader will tell us why he will not be straightforward about this element of it and here is what it is: this does not simply say that judges cannot decide the question. And it does not say that one State cannot compel another. It also says, and its major impact, if it were to pass, would be to say to the voters of Massachusetts, no matter what you say in a referendum, no matter how you, the democratic electorate of Massachusetts, choose to define marriage, we the Federal Government overrule you.

What justification have you for that? You say the people of Texas, the people

of Tennessee want to decide. Why not the people of Massachusetts? Why did you not draft an amendment that would have honored the right of a State's electorate to make a decision? Our legislature is now in charge of this issue. The legislature will decide and the referendum will decide; and this amendment undeniably, but silently, says that no matter what any State does, it will be overruled. Vermont's civil union law originally came from the courts, but it has since been accepted by the political electorate. There have been votes in Vermont over this. Elections. This would also be overturned.

But now let me turn to the merits. We heard one gentleman say that he was not talking about same-sex marriage. He just noted that he had presided over the dissolution of 20,000 marriages. I am a gay man and I have presided over the dissolution of none. So I guess I do not feel quite as guilty about assaulting marriage as some of you would like me to feel. I am sorry Rush Limbaugh has been divorced three times, but it ain't my fault; and it is not the fault of any of my friends. That is the issue.

We are not assaulting marriage. Since when is it an assault on something for people to say, you know what, we have been excluded from this institution. We are also human beings and we feel love. We feel it in a way different than you. We feel it for someone of the same sex, male or female. And we look at your institution of marriage, and we see the joy it brings. We see the stability it brings to society. How does it hurt you if we share in it? That is the core issue I have not heard understood. What is it about the fact that two women in love in Massachusetts want to be legally as well as morally responsible for each other and live together and keep their home? Why is that an assault on you?

What a case of blaming the victim. You are defending yourselves against two loving people whose failure is to love each other and to want not simply to be free floating but to be committed? What is it you are protecting yourselves against? How do we threaten you? What about the love of two men so disturbs you that it would dissolve marriages? There are apparently, what, men and women happily married all over the country and they will learn that in Massachusetts the legislature allowed same-sex marriage to continue and they will get a divorce, they will call the gentleman from Texas and he can make it 20,001.

The gentleman from Texas, the majority leader, says this is not about gay marriage. Yes. And God didn't make little green apples and it don't rain in Indianapolis in the summertime. This is a political effort and it comes up a month before the election when it has been an issue since May of this year at least and before, a month before the election, an amendment that has no chance to pass, demonizes same-sex couples.

I say demonize for this reason. You say, we do not have anything against these people. Then why do you change my love into a weapon? Why if I have the same feelings that you do towards another human being does that somehow become the only weapon of mass destruction you have ever been able to find?

I urge the House to turn this down, let the people of Massachusetts make their own choices, and let loving men and loving women live in peace.

Mr. DELAY. Mr. Speaker, I yield myself such time as I may consume.

I have the utmost respect for the gentleman from Massachusetts. I respect his feelings. No one is attacking his feelings or his relationships. There are many loving relationships between adults. But, Mr. Speaker, what we are saying and what this amendment is about is children, having children, raising children, and the ideal of marriage between one man and one woman raising those children.

Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. FORBES).

Mr. FORBES. Mr. Speaker, one thing that both sides of the aisle, I think, can agree on today is that we should not be here today debating this amendment. I was thinking as I was sitting here, if we could go back in time to the days when they were laying the very foundation of this building that we are in today and we could ask the individuals laying that foundation, people walking the streets in D.C., what is the definition in America of marriage, they would have looked at us in bewilderment and they would have said without question, it is the relationship between one man and one woman.

Mr. Speaker, if I had dared to tell them that there would come a day when I would stand in this Chamber and people would point their finger at me and they would yell and they would scream and they would call me names because I dared to stand up here to defend that definition of marriage, they would have been just awestruck.

Mr. Speaker, our friends on the other side of the aisle always talk about representing the people in this country; but when their definition of marriage was challenged, 78 percent of them in Louisiana stood up and said that they believed that marriage should be between a man and a woman; 71 percent of them stood up in Missouri; 70 percent in Nebraska; 69 percent in Hawaii; 61 percent in California.

Mr. Speaker, what we are facing today is an assault by a few individuals on that basic traditional definition of marriage between a man and a woman. The problem we had is that when this Congress stood up with the people in this country and said we want to protect that definition for you and they passed the Defense of Marriage Act, they realized that that act is currently under attack in Nebraska alone where 70 percent of the voters amended the Nebraska constitution to define marriage as the union of one man and one woman, that is being attacked and trying to be overturned now.

Mr. Speaker, before our subcommittees we have heard testimony after testimony by leading scholars of the courts that tell us that when that act comes before the courts, it will be declared unconstitutional, not because that was the original Constitution but because of the way a few handful of judges are interpreting that Constitution today.

Mr. Speaker, the question for us is very simple. There are some of our friends who say that the protection of marriage is not worth amending the Constitution. I think it is worth that, Mr. Speaker; and I hope we will pass this amendment so we can stand with all the people across this country who believe very strongly that marriage should be between a man and a woman for the protection of the children in that marriage.

Mr. CONYERS. Mr. Speaker, I am pleased now to reach across the aisle and yield 3½ minutes to the distinguished gentleman from Arizona (Mr. KOLBE).

Mr. NADLER. Mr. Speaker, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from New York.

Mr. NADLER. I thank the gentleman for yielding.

Mr. Speaker, the distinguished majority leader said that this amendment is about protecting children. With all due respect, it has nothing to do with protecting children. Gay people, lesbian people raise children today. They have children. They raise them. The laws of many States permit them to adopt children and they do. What this amendment is aimed at doing is aimed at preventing any State from bringing some stability to the lives of those children by allowing their lesbian or gay couples who have legal custody of those children, who are raising those children, to be able to get married. And this amendment says never mind what the electorate says, never mind what the legislature says, we do no want those parents to be able to be married.

So do not tell us this is about protecting children. Whatever it is about, it is not about that.

Mr. KOLBE. Mr. Speaker, I thank the gentleman for his comments. I thank the gentleman from Michigan for yielding me this time. I wish I could seek time from my side of the aisle to speak today for basic human rights.

□ 1515

Unfortunately, the misguided effort to enshrine family law into the Constitution of the United States comes from this side of the aisle. So I am grateful to the minority for yielding me this time.

Mr. Speaker, the very process by which this bill is brought before us today is an affront to this institution. It was not considered by any committee of the House. It is not brought to the floor by the chairman of that

committee. Rather, it is brought by the Republican leadership, who decided to take upon themselves to do the work of the committees and their chairmen. Moreover, this very same legislation was considered in the Senate and did not even achieve a majority vote, much less the required two-thirds for a constitutional amendment. Why then are we rushing to judgment here today? What is the compelling reason to consider this now?

Eleven States have proposed constitutional amendments on the ballot this November which would define marriage in their own States as being between a man and a woman. While I might disagree with the actions of the voters in my State or any State considering such an amendment to their constitution, that is their prerogative. For better than 200 years, family law has exclusively been the domain of the States. And that is where it should remain. Vice President CHENEY said exactly this, and I agree with him. The chief crafter of the Defense of Marriage Act in 1996, former Representative Bob Barr, has said as much. And I agree with him. Marriage and divorce, inheritance and adoption, child custody, these are matters which correctly belong with our States. It certainly does not belong in the Constitution of the United States.

Many of the States considering amendments to their own constitutions would permit their legislatures to enact provisions for civil unions between two people of the same sex. This amendment would prohibit that. But that is the genius of our federal system. To allow States to find solutions to issues such as family law which work uniquely for them.

Amending the Constitution is, thankfully, a difficult task. That cumbersome process has saved us from making ill-advised changes during these past 215 years. It will save us from ourselves again this day.

Never in our history have we used the amending process to limit the rights of citizens. From the first amendment to the fourteenth, the framers and the Congresses which followed have sought to expand and protect the rights of citizens. This would be a unique amendment in that it takes away rights from one group while specifically conferring it upon another. Try to find another provision in the Constitution that does this. They will look in vain.

Mr. Speaker, this Congress and those before it should be about protecting rights and expanding rights. This proposed amendment to our Constitution is about discrimination. It is unnecessary. It is unwarranted. It should be soundly defeated.

Mr. DELAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have been here before. Abortion was up to the States, and it was supposed to be up to the States. Unfortunately, those who wanted more abortions in the States and the States were not doing what they wanted had a concerted strategy to use the courts to get abortion. And they worked over the years, went to the Supreme Court, and they got their abortions. And we have abortions.

The same thing is happening now on marriage. They are trying to get marriage redefined in this country, so we know that we will end up in the Supreme Court.

Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. BISHOP).

Mr. BISHOP of Georgia. Mr. Speaker, I am glad that Congress has moved this important legislation to the floor of the House for a vote today. My office has received literally thousands of letters and e-mails, personal visits and phone calls from constituents urging me to support the institution of traditional marriage. And I want them to know today that I have heard them.

I realize that reasonable men can differ on whether to allow nontraditional marriages in the United States. But I am clear on this issue because the values I share with the people of the Second Congressional District of Georgia are deeply held for God, country, work, and family. Moreover, these families' values are those of the traditional family based in our Judeo-Christian principles. That is why I have cosponsored and will vote for this important constitutional amendment, H.J. Res. 106, in order to protect the institution of marriage by defining marriage in the United States as the union between a man and a woman.

I also voted for the Defense of Marriage Act in 1996, which prohibits federal recognition of same-sex marriages and allows individual States to refuse to recognize such marriages.

Mr. Speaker, only by having a uniform definition of marriage established in the Constitution and interpreted by the federal courts can this most basic unit of society be protected.

God, country, work, family, marriage between one man and one woman, to these we must pledge our sacred honor.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY), who has worked with us on civil rights, human rights and international issues throughout her career.

Ms. WOOLSEY. Mr. Speaker, here we go again. With all the important legislation we should be working on with just 1 week left in our session, we are writing discrimination into the Constitution for the first time in our country's history.

Whether one supports or opposes gay marriages, there is no reason to threaten the democratic values set forth in our Constitution. Not now, not ever.

Of course, Republicans are getting a lot of political mileage out of this debate today from their right-wing fundamental supporters. And they get a lot of mileage out of being on the side of what we they call ''family values.'' They have offered programs like their Marriage Initiative, where $1.5 billion has been funded to help the poor acquire interpersonal and conflict management skills to promote and strengthen marriage.

The people I talk with, however, do not want the government to be their family therapist. They do not want the government to be in their bedroom. They want a government that helps create good jobs with good benefits, flexible workplaces, universal health coverage, affordable child care, safe after-school programs and much more. They know what real family values are.

And let me read a letter I just received from a family that knows about family values. The woman writing, her name is Casey. She is from Santa Rosa, California. She writes: ''I was in a very long relationship with my partner until her death on April 17, 2000. Although I wanted very badly to, we could not legally marry, and my partner refused to marry me until our marriage would be legal. Hence, we were never able to marry even though we raised two children, who, by the way, are both heterosexual.

''Shortly after her terminal diagnosis after 18 months of a valiant fight against cancer, she asked me to marry her brother. This would accomplish three goals: I would be afforded health insurance through his work. As I have several debilitating chronic conditions, it is vital that I have health coverage.'' Second, ''if and when he becomes ill from his HIV or Hepatitis C, he will have someone to care for him.'' And, third, ''our youngest child would have two parents for the rest of her childhood, another 3 years.

''Three weeks to the day after her brother and I were married, the love of my life died in my arms at the age of 37. If we had been allowed to marry, we would have felt that we were full citizens in our State and in our country. As it was, she died a second-class citizen. Please do not let any more Americans die as second-class citizens. Sincerely Casey McChesney.''

Mr. CONYERS. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from California (Mr. BERMAN).

(Mr. BERMAN asked and was given permission to revise and extend his remarks.)

Mr. BERMAN. Mr. Speaker, I rise in opposition to the so-called Marriage Protection Amendment.

During the Civil Rights movement there was great public turmoil over whether or not white and black children should go to the same schools; whether people of different races should eat in the same areas of restaurants, drink from the same water fountains, sleep in the same hotels; even whether consenting adults of different races should be allowed to marry each other. After years of struggle and public discourse, the minority went to our country's highest court and to its elected representatives in Congress, and at long last, in their quest for equality, our government realized that Black Americans are Americans.

Today, only 40 years later, these questions seem preposterous. To children learning about

that time in school, it seem unreal. Listening to the debate today, I have to wonder if we will ever learn from the lessons of our history. Today we're talking about an amendment to the Constitution—the document that assures all Americans that they are equal. We're asked to amend the Constitution in a way that will say all Americans are equal, except for this one group. What we're really talking about today is one question. Are Gay and Lesbian Americans, Americans?

I hear those who support this amendment saying we have to amend the Constitution to protect us from activist judges who are not upholding the notions of family that existed when the country was founded. If the authors of this amendment had served in Congress during the Civil Rights movement, we could have heard them argue to defend segregation with an ''Education Protection Amendment'' after the Supreme Court's activist decision in the Brown v. Board decision. After the Loving v. Virginia decision they would have reacted to the judicial activism with a ''Racial Purity Protection Amendment.''

I don't believe that the proponents of this amendment, or for that matter the majority of the American people, truly believe that a gay couple living down the street in a committed relationship is a threat to their own marriages or to other marriages in their community. I don't think they really believe it because such a belief would be completely nonsensical.

The proponents of this amendment argue that two women who fall in love and want to marry will eventually be the downfall of all families in the United States. They say it will lead to the breakdown of the family. I want the people in favor of this amendment to look at the more than one million children of gay and lesbian parents in this country today one million children of gay and lesbian parents in this country today and tell them that you're here fighting to protect the rest of the country from their family.

The Members who support this amendment claim they want to protect marriage. Open your eyes and look around. There are plenty of threats to marriages today—adultery, divorce, just the challenge of two adults making it through life's struggle together. Two people falling in love is not a threat to marriage—it's the basis of marriage.

If the other side were sincere about wanting to protect marriage, we'd have an amendment on the floor today constitutionally banning divorce. If they really wanted to protect children from the dangers of being raised without a father and mother, we'd be banning single parenthood. But we aren't.

Each Member of this Congress took a vow to defend the Constitution when we took office. The Marriage Protection Act would defile our Constitution, and we should uphold our duty today by opposing it.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. KING), a member of the Committee on the Judiciary.

Mr. KING of Iowa. Mr. Speaker, I thank the majority leader for yielding me this time.

A lot has been said about this Constitution. I will just take my colleagues to article I, section 1. It says ''All legislative powers herein granted shall be vested in a Congress.'' That is what the courts have taken over from us, legislative powers.

So I want to say this about families: There is only one institution that is as old as humanity itself. There is only one institution that we know is right for raising children. There is only one institution that we know is best to teach our children our values of faith, our moral values; only one proven institution to transfer our work ethic to the next generation. There is only one institution that transfers all that we are as a people to our children and grandchildren and only one relationship between people that ensures the survival of the human race.

All of human history, all that we were, all that we are and all that we are ever going to be is built upon one institution, the cornerstone of civilization. And that institution, Mr. Speaker, is marriage.

Mr. Speaker, we owe too much to our Creator, too much to posterity and too much to our children to throw away marriage, redefine marriage for no more reason than to demonstrate tolerance.

The active effort on the part of four unelected Massachusetts judges to impose same-sex marriage on all of America without the consent of the people is judicial tyranny. And if we believe in ourselves, and we do, and if we believe the Constitution is a sacred covenant that provides the best hope for all of humanity, then we have no other alternative but to amend the Constitution to protect our posterity from those who would forever alter or abolish our way of life and to do so without thought given to the price that would be paid by all future generations.

We cannot put the Genie or the Gina or the Jimmy or the Joey back in the bottle. If same-sex marriage were something that was an experiment that, if it did not pan out, we could simply change it back, I would not be so emphatic here today. Mr. Speaker, we will not get a ''do-over'' on marriage. We will not get a second chance to get it right again; not in this country, not in this civilization and not in this generation of man.

I support the constitutional amendment.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. SMITH), a member of the Committee on the Judiciary and subcommittee chairman.

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman from Texas, majority leader, for yielding me this time.

Mr. Speaker, however we feel about the subject of marriage, we can still support the Marriage Protection Amendment. That is because judicial activism in America has reached a crisis.

Judges routinely overrule the will of the people, invent so-called rights and ignore traditional values. Recently, judges have even changed the definition of marriage. Most Americans simply do not want judges to dictate a new kind of marriage that is so different from the one that has served so many so well for so long. They want to protect marriage as we know it.

Eleven States have proposed to alter their constitutions or statutes to protect traditional marriage through ballot initiatives. Five States have already done so, with an average of over 70 percent of the voters wanting to protect marriage.

To prevent judges from overruling these popular initiatives, we must pass the Marriage Protection Amendment. Either we act in Congress or a few judges will redefine marriage and impose their personal views on the country.

The constitutional amendment process is an integral part of our democratic system, requiring approval from two-thirds of each House of Congress and three-quarters of the States by votes of their State legislatures. Passing a constitutional amendment places this debate back where it belongs, and that is with the American people. It is the American people and their representatives who should determine how marriage is defined. That is why we should support the Marriage Protection Amendment.

Finally, Mr. Speaker, I want to say, we have heard two arguments time and time again today by the opposition that they have used to cite to oppose the Marriage Protection Amendment. The first is some variation of ''all people are created equal,'' that somehow this is about equal rights. But, Mr. Speaker, just because all people are created equal does not mean that all kinds of marriages are equal, just like it does not mean that all kinds of flags are equal or all kinds of governments are equal.

The second argument we have heard today over and over again is that somehow this is a political issue being used to win elections. I do not mind that argument, Mr. Speaker, because that concedes that a majority of the American people agree with us that we want to protect marriage as we know it.

□ 1530

Mr. DELAY. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. AKIN).

Mr. AKIN. Mr. Speaker, I am pleased to rise today in support of the Marriage Protection Amendment.

There have been references to the Constitution. Mine starts out ''we the people,'' not ''we the judges.'' We did not ask for this debate. It has been brought on us by activist judges who have chosen to ignore the will of the people and instead redefine marriage for all Americans.

Sociologists, psychologists, and other experts can give us all sorts of technical explanations, but we all know from experience that kids are best off when they have a mom and a dad.

And kids is what this debate is all about. It is not about civil rights or the rights of same-sex couples. Same-sex couples are free to live as they choose. This amendment does not

change that. Instead, this amendment simply defines what marriage is, the union of one man and one woman.

Now, some have used the word ''discrimination'' or ''discriminating.'' You know, 342 Members of this House, along with the President, signed the Defense of Marriage Act. Does that mean they were discriminating? How about the 70 percent of the voters in of my State of Missouri or 80 percent in the State of Louisiana? Are they discriminating? I think not.

Activist judges are trying to institutionalize a lie that marriage is just about big people relationships, but they forget the little people, the whole generation of kids who will struggle with this terrible precedent.

We do not have to look very far to see the results of family deterioration. Whole cities have suffered terrible poverty and crime because the model of traditional families has been weakened. Should we now stand idly by while a mere handful of activist judges seek to institutionalize the lie that marriage is disconnected from child rearing?

It has been tried before. It has been tried in the Netherlands, and the result is a tremendous increase in the number of little children who are born without any families.

The other night I went to a dinner, there was a 16-year-old little girl, and she said that ever since she could remember being alive she had only one wish: She wished that she had a family.

Do you know what it is like to be lonely, to be really lonely, to have no mom and to have no dad? Do you realize what you miss when you do not have a family, about the love and the affection? When you wake up in a bed and dream at night and there is someone there to give you a hug? The self-sacrifice and self-discipline and grace, forgiveness, all these things that families teach us?

I remember when I was a little kid trying to learn to ride a bicycle. I finally got it going and ran it smack into a bush. I was all bruised and scratched and in tears; and my dad, my big strong dad, came over and he picked it up and he said to me, ''It is time to get back and try again.'' See, those are the kinds of things that moms and dads provide.

So this thing is about the little people. It is whether kids are going to have a mom and a dad. The real discrimination here is by activist judges who are trying to deny children the advantages of a simple family. If this Congress does not act, then it is a gross dereliction of duty if we do not protect our children and protect our marriages.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. TOOMEY).

Mr. TOOMEY. Mr. Speaker, I thank the majority leader for yielding me time.

Mr. Speaker, I rise in strong support of the Marriage Protection Amendment. This amendment is about recognizing a simple, important, and fundamental truth, and that is just that the marriage of one man and one woman is a unique, special and, in fact, an indispensable relationship that deserves the special recognition we have given it for millennia.

We have got many kinds of important relationships in life. We all know those. Siblings, friends, cousins, in-laws, neighbors, there are lots of important relationships. But only one relationship, the marriage of one man and one woman, can provide the optimal environment for raising children. And that is why the family with a married husband and wife at the center has always been the most important building block of society. And that is why we are here today, to ensure that that unique and vital and important relationship be recognized, preserved, and protected.

Let me reaffirm something that the majority leader said earlier. The fact is the definition of marriage is going to be written at the Federal level. The question here today is whether that is going to be done by nine men and women wearing black robes or whether it is going to be done by the American people through their elected Representatives in Congress and the 50 States through a very democratic process. Put me squarely on the side of those who believe that the American people should make this decision.

We in Congress have stood by and watched the courts usurp more and more power from the American people for decades, and I think we have abrogated our responsibility to the American people by tolerating judicial activists for too long. It is finally time to draw the line and let the American people affirm the definition of marriage by passing this amendment.

Mr. DELAY. Mr. Speaker, I yield 1 minute to the gentleman from Alabama (Mr. ADERHOLT).

Mr. ADERHOLT. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise today in strong support of the Marriage Protection Amendment. I am proud to be counted among the cosponsors of this constitutional amendment this afternoon.

In the history of our country, I do not believe anyone has ever said that our system of democracy would be easy. Our Constitution was designed to set us on a path, but it also gave us the ability to change that path when it became necessary. Our Founding Fathers wanted to ensure that we took that process very seriously. They set the bar very high.

Today, many of us here in this body believe that the time has come to change paths, and many people in our country agree. It is time that their voices are heard in this debate.

Today on the floor we have heard a litany of questions about why we are considering this issue. Yes, there are important bills that need to be considered: health care, homeland security, education, jobs. All of them need to be addressed, and no one would argue with that.

But how could anyone say that protecting marriage and the future of the American family is not a top priority? Marriage and the family is the very foundation of our society. It is the activist judges in Massachusetts and Oregon that have compelled the Congress to act, not the other way around.

Mr. Speaker, I urge my colleagues to support this legislation this afternoon as we support the marriage between a man and a woman.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, why are we standing here today, wasting taxpayer dollars in an attempt to, for the first time in our history, amend our Constitution to deny a specific group equal rights? Why do we not leave it to the States, as our Constitution provides?

Frankly, I fail to understand why gay marriage threatens my wife's and my 24 years of marriage, or anybody else's marriage, or why it would undermine the Republic.

Gay and lesbian Americans want their secular government to legally recognize their committed relationships. They want their secular government to provide equal benefits in tax law, access to health care, Social Security, and death benefits. They want the same benefits as other Americans.

Some of my friends on the other side of the aisle are being disingenuous by saying they simply only want to define the institution of marriage. If that is their only motive, then why do they also oppose domestic partnerships and civil unions, which would give gays and lesbians the same rights as other Americans?

Why are we even dealing with this now? The Senate has defeated it. Could it be an attempt to divert attention from the failings of the Congress to do its work on appropriations and transportation; to divert attention from the war in Iraq, from a poor economy or from skyrocketing deficits; to force a blatantly political vote in this House; to whip up a frenzy in a specific group of voters one month before an election?

Let us stop playing political games. Vote down this amendment. We should not be dealing with something that is best being left to the States.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, marriage is a universal human institution. It always has been in all societies. But marriage in the United States has been under attack in recent years. And the future of marriage really does matter.

Regardless of where we look, we have seen a gradual weakening of the institution of family that historically we have relied on to raise kids. And while marriage has taken a beating from divorce and other factors, the statistics

still show that the best home for kids is still with a mom and a dad who are married.

This debate is really about what is best for our children. Children living with their mom and dad are safer, children living with their mom and dad are less likely to be abused or neglected, and children living with their mom and dad have fewer health problems and engage in fewer risky behaviors than their peers. These children are more likely to do well in school. They are better off economically and display increased ability to adapt to changing circumstances than peers not living with their mom and dad.

Data shows children who do not have the benefit of mom and dad have unique challenges they would not face if their parents were married and living at home.

And do not try to tell me that people who believe children need moms and dads are bigots. Do not try to tell me that people who believe in moral absolutes are guilty of moral bigotry. We are here to protect our kids. We are here because marriage is healthy for our children.

When marriage ceases to be seen as a means to bring people together for the sake of children, marriage suffers; and when marriage suffers, children pay the price.

Marriage is important because kids need a mom and a dad. History shows that when one aspect of marriage is damaged, the entire institution suffers.

We need to protect marriage by passing this amendment.

Mr. CONYERS. Mr. Speaker, I am proud to yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY), the leader of the equal rights amendment.

Mrs. MALONEY. Mr. Speaker, the Constitution of the United States is the single greatest foundation of law in history. It serves as a model for democracies around the world. Therefore, we should approach amending it with great caution and reverence.

For 215 years the U.S. Constitution has protected the rights of the American people; the right to assemble, the right to worship, the right to speak freely, and we ought to pass a constitutional amendment that gives equal rights to women. Instead, today we are debating a constitutional amendment that would curtail a right. Our predecessors tried this once in the 20th century. Fourteen years later they had to unamend the Constitution by rolling back prohibition.

Our Constitution is silent on marriage, and that is good, because the American people's definition of what is an acceptable marriage has evolved over the years. A marriage once signified that a woman had no legal identity apart from her husband. Within the last 100 years, over a dozen States prohibited marriages between those of a European and Asian decent, and the Supreme Court overruled laws barring interracial marriage less than four decades ago.

No constitutional amendment stood in the way of those changes. Laws governing families and marriage have always been determined by State governments. Dozens of States are already dealing with this issue. It is federalism in action. Many of this constitutional amendment's supporters have preached the virtues of federalism on other issues. You cannot be a federalist except when federalism is inconvenient.

This is not governing on principle, it is practicing the politics of expedience and divisiveness right before a major election, and we should know better than to play politics with the United States Constitution.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

(Mr. PENCE asked and was given permission to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding me time. More to the point, I thank the majority leader, the gentleman from Texas (Mr. DELAY), for his extraordinary moral courage in leading this critical issue to the floor of this Congress and leading the debate today.

I also congratulate the original author of this legislation (Mrs. MUSGRAVE), who even as a freshman has left already an indelible imprint on the national debate in this legislation.

I rise today in support of the Marriage Protection Act because I believe, as the overwhelming majority of the American people have ever believed, that marriage matters; that it was ordained by God, established in the law; that it is the glue of the American family and the safest harbor to raise children.

We have heard again and again throughout this afternoon that marriage is under attack by judicial advocates. But I rise today to say that marriage matters to children. And we need not look to the theoretical. Marriage in Scandinavia and in Holland is dying since the advent of same-sex marriage over the last decade in those countries.

□ 1545

As a result, a majority of children in Sweden and Norway are now born out of wedlock. In some parts of Norway, as many as 80 percent of first-born children and two-thirds of subsequent children are now born out of wedlock. And we know ever since my colleague from Indiana, Dan Quayle, first said it, marriage matters to children. Children born out of wedlock have statistically been proven to be more than twice as likely to be poor, to give birth outside of marriage themselves, to have behavioral or psychological problems, and fall into every form of social malady that besets our children.

Marriage matters to children.

I rise today to say against this extraordinary phalanx of legal attacks in virtually every jurisdiction of the country that I commend the leadership of this Congress and, to no less extent, the President of the United States of America for saying that marriage matters enough to find space in the Supreme Court of our land to defend it.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado (Ms. DEGETTE), a distinguished lawyer in her own right.

Ms. DEGETTE. Mr. Speaker, one of the most glaringly absurd aspects of this debate is that marriage has never been and should not be now a Federal issue. Marriage is quintessentially a State issue. States have always had the ability to determine what constitutes marriage and the protections that it affords the will of the citizens.

Not only does this proposed amendment turn the notion of Federalism on its head, though. It is antithetical to the spirit of our Constitution. This amendment would enshrine discrimination in our Constitution and be the only amendment that actually takes away a group's rights. It would not only take away the right to marriage, but also the right to provide basic fundamental rights, such as the right to visit a partner or child in the hospital.

And to those who say it will help children, I have this question: Why should we not instead ban divorce? Approximately 1 million children, the product of heterosexual marriages, are living in single-parent homes in this country. Fifty percent of heterosexual marriages will end in divorce. If a State allowed same-sex marriage, I do not think it would affect my own heterosexual marriage. We are proud of the fact that this body represents America.

So I would ask those who are divorced or those who have committed adultery, search in your soul and ask yourself, are you really ready to stand here today, today in this body, and cast the first stone?

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I want everyone to keep in mind in the midst of this debate that a primary benefit of marriage is that it provides children with a mother and father from whom they can learn and be protected. What we are talking about today is whether or not we as a Nation will work to reaffirm an institution that provides profound benefits for children.

It is correct that there are millions of men and women in this country who bravely raise children as single parents, and I applaud them for that. But there is an ideal for our children. Social science and everyday experiences teach us that children raised without the presence of both a mother and a father experience more poverty, more substance abuse, a higher rate of educational failure, and much more. Given the importance of marriage in the presence of a mother and father for our children's general welfare, this institution must remain strong.

As a wife and a mother of two sons, I know the importance of children having both a mother and father. When our boys were growing up, my presence was important and irreplaceable. Studies have shown that young men raised by both a mother and father have more positive attitudes toward women, children, and family life. This is exceedingly important, as our society benefits when boys grow up to be men who take raising children seriously. My husband also played an equally important role in the lives of our boys, the role of father, a role that I could never play.

It is true the future of marriage as a strong institution goes far beyond whether or not the Constitution is amended to reaffirm the definition of marriage as the union of one man and one woman. This does not mean that the Marriage Protection Amendment is unimportant. As a society, we will have no hope of strengthening the bonds of marriage without a unified, national definition of marriage that promotes the ideal for our children, that of being raised by both a mother and a father.

As an original cosponsor of this amendment for the last 3 years, I stand in strong support of the Marriage Protection Amendment, and I urge its passage.

Mr. CONYERS. Mr. Speaker, I yield to the gentleman from Massachusetts (Mr. FRANK) for the purpose of making a unanimousconsent request.

(Mr. FRANK of Massachusetts asked and was given permission to revise and extend his remarks and include extraneous material.)

Mr. FRANK of Massachusetts. Mr. Speaker, I insert into the RECORD answers I gave to the Committee on the Judiciary and some further material which rebut the preposterous conclusion of Stanley Krutz, which was quoted here, that somehow, same-sex marriage resulted in a decline in heterosexual marriages elsewhere.

JUDICIARY COMMITTEE, CONSTITUTION SUBCOMMITTEE,
Rayburn House Office Building,
Washington, DC.

Answers to the questions from Jerrold Nadler:

When I was asked about Stanley Kurtz's research by Congresswoman Hart at the hearing, I had not read any of his work. I now have and I can say that I believe his interpretation is entirely without intellectual merit.

As I recall Ms. Hart's question, she asked me to accept Mr. Kurtz's factual assertion that a recognition of same-sex marriage had been followed in various European countries by a decline in heterosexual marriage, and asked if I could think of any possible explanation other than that the former had caused the latter.

I was reluctant to answer the question before reading the data lest I be validating premises and assumptions which I would later find to be invalid. This turns out to be the case. In fact, Mr. Kurtz does not himself argue that same-sex marriage recognition preceded a decline in heterosexual marriage. In every country he discusses, and his selection is surprisingly sparse, a point to which I'll return, a decline in heterosexual marriage and childrearing in heterosexual marriages preceded by a significant period of years any recognition of same-sex marriages.

But even on the narrow—and inaccurate—statement of Mr. Kurtz's position that Ms. Hart put forward, the alternative explanation to the assertion that same-sex marriage causes a deterioration in heterosexual marriage is a simple one: They may both be effects of the same or similar social causes. Indeed, as Ms. Hart put the question to me, it can serve as a dictionary example of the logical fallacy known as ''post hoc ergo propterhoc.'' That is, the fallacy that believes that if something happened after something else, it must necessarily have been caused by it.

The key point again to stress is that Mr. Kurtz himself does not argue that same-sex marriage recognition preceded the deterioration in opposite-sex marriage.

In fact, Mr. Kurtz himself argues essentially that the primary relationship of same-sex marriage and a decline in heterosexual marriage is that they are both cause by the same set of social phenomena. A fundamental flaw in his reasoning of course is that he does virtually no analysis of any of the European countries in which there has not been some form of recognition of same-sex relationships. In other words, there is zero comparative analysis in his work. Have significant deteriorations in the incidence of heterosexual marriages happened in other European countries which have not in fact recognized same-sex relationships. The answer is almost certainly yes but we will never know that from reading Mr. Kurtz, who carefully avoids even posing that question, obviously lest his hypothesis be endangered. He does refer to England as a country where there has been a significant deterioration in the number of heterosexual marriages, but fails to note that this undercuts his argument about the relationship between this and recognizing same-sex relationships since England had not done that at the time of his analysis.

The second point to be stressed is that Mr. Kurtz is not talking about same-sex marriage in most cases, but rather of various forms of recognition of same-sex relationships, akin to domestic partnerships or civil unions. This is relevant because some of those who questioned me who are supporters of a Constitutional amendment asserted that they were talking only about the unique nature of marriage, and seemed to think that Mr. Kurtz supported them. Of course he does not since he conflates marriage and other forms of recognition throughout his analysis. Thus, the distinction that one Constitutional amendment draws between marriage and other forms of same-sex relationships does not appear to be at all supported by Mr. Kurtz's analysis.

I have read both his testimony and his article in the Weekly Standard carefully and I am unable to find any coherent argument that says that recognizing same-sex relationships reinforced—he does not claim that they are the primary cause—a decline in heterosexual marriage. His exact statement is ''there is good reason to believe that same-sex marriage and marriage-like same-sex registered partnerships are both an effect and a reinforcing cause of the Scandinavian trend towards unmarried parenthood.'' The primary cause of the ''marital decline in Scandinavia'' according to Mr. Kurtz, incidentally, are ''contraception, abortion, women in the workforce, cultural individualism, secularism and the welfare state.'' That is, all of these have by Mr. Kurtz's own analysis more of a responsibility for the decline of heterosexual marriage and same-sex-marriage. This of course reinforces my earlier point—namely that Mr. Kurtz scrupulously in his analysis avoids looking at the statistics in countries which have not recognized same-sex marriage, since virtually all of them in Western Europe are affected by these other factors. And it does appear that to Mr. Kurtz, even if we abolish same-sex relationship recognition, we would have to ban or severely restrict contraception, abortion, women in the workforce, cultural individualism, secularism and the welfare state if we were to save marriage. I recognize that there are members of the Judiciary Committee who are attracted by the notion of restricting some or all of these, and I commend their discretion in not being more explicit about this wish.

When it comes to causality, the only effort to establish a causal relationship-between recognizing same-sex unions and the decline in heterosexual marriage comes in his testimony when Mr. Kurtz says that ''same-sex partnerships in Scandinavia have furthered the cultural separation of marriage and parenthood in at least two ways.'' He then says that ''first, the debate over same-sex partnerships has split the Norwegian Church,'' and he argues that this weakening of the traditionals within the Norwegian Lutheran Church is a cause of an increase in same-sex relationships. I have tried very hard to find the second causal factor but a very close reading of the text produces no second. So we are left with one assertion of causality—namely that the fact that ''clergy who preach against homosexual behavior are banned'' from preaching in parts of Norway means that their advocacy of heterosexual marriage is no longer heard. This reinforces my view that whatever is or is not happening in Scandinavia in this regard has virtually no relevance to the United States.

I am aware of no religious denomination that has banned clergy from the pulpit if they are against same-sex marriages. There are some denominations that allow this to be performed, but there should be no analogy between the United States, where the great majority of religious groups do not recognize same-sex marriages, and Mr. Kurtz's view of parts of Norway where virtually all clergy who oppose same-sex marriage are banned. To be explicit, if the causality that links a recognition of same-sex relationships to a decline in heterosexual marriage rests entirely on the fact that anti-same-sex relationship clergy are being marginalized and in some cases silenced, it has no relevance to the United States where nothing of that sort has happened or is likely to happen.

This leads me to my final point—namely that reading Mr. Kurtz makes it even clearer than it was to me before that the most relevant experience to draw on in predicting what impact recognizing same-sex relationships will have on American society comes from Vermont. Some have argued that the Vermont experience is not relevant because it has only been in effect for four years or so. But Mr. Kurtz himself has an important section in his testimony on the Netherlands, where ''formal same-sex marriage . . . took effect in 2001,'' and ''marriage-like registered partnerships'' dates from 1998. In other words, the Vermont experience is roughly comparable in time to that of the Netherlands, and if Mr. Kurtz is right in judging an impact based on the Netherlands, Vermont should be equally relevant from the chronological standpoint—and, as a part of the United States, far more relevant culturally.

We have one set of experiences with legal recognition of same-sex relationships in the United States—that of Vermont. It shows none of the negative effects that opponents of same-sex marriage have predicted. Mr. Kurtz advances a correlation in the contin-

ued decline of marriage in various European countries—where that decline long predated any recognition of same-sex relationships—and the recognition of same-sex relationships. But he carefully confines his analysis only to those countries where same-sex relationships have been recognized, so we have no way of telling whether or not the decline in marriage that he attributes to same-sex relationships has been equally great in countries where there is no such recognition. And the only specific causal point he advances is that this silencing or intimidation of Norwegian Lutheran clergy who oppose same-sex marriage has diminished their ability to preach in favor of heterosexual marriage. I am very certain in my view that the experience in Vermont is far more relevant to gauging the impact of a recognition of same-sex relationships in the United States than is the experience in a couple of Norwegian counties where the clergy opposed to same-sex relationships have been silenced.

BARNEY FRANK.

WILL PROVIDING MARRIAGE RIGHTS TO SAME-SEX COUPLES UNDERMINE HETEROSEXUAL MARRIAGE?

Since the November 2003 court ruling allowing same-sex couples to marry in Massachusetts, a new debate on expanding the right to marry has exploded across the United States. While the debate involves many issues, one particularly controversial question is whether heterosexual people would change their marriage behavior if same-sex couples were given the same marital rights and obligations.

As a way to understand what might happen, some writers have looked to the experience of those Scandinavian countries that have pioneered giving a marriage-like status to gay and lesbian couples. Denmark adopted such a ''registered partnership'' law in 1989, Norway in 1993, Sweden in 1994, and Iceland in 1996. Same-sex couples who register as partners in those countries receive most of the rights and responsibilities of marriage. Since then, three other countries (France, Germany, and Finland) have also created a new status for same-sex couples, and two (the Netherlands and Belgium) opened marriage to same-sex couples.

What can we learn from the experience of these countries about how giving gay couples the right to marry affects heterosexual marriage patterns? On the one hand, the fact that Danish marriage rates increased slightly after the passage of partner recognition laws has led some observers to conclude that gay couples are saving the institution of marriage.

On the other hand, Stanley Kurtz of the Hoover Institution claims that allowing gay couples to marry or have marital rights has undermined the institution of marriage in Scandinavia and the Netherlands. This second argument has been widely reprinted and quoted around the country. However, the claim that giving marital rights to gay couples will undermine heterosexual marriage is based on the consistent misuse and misinterpretation of data.

The argument that same-sex partnerships undermine heterosexual marriage rests on four claims:

1. In the European countries that allow same-sex couples to register as partners, marriage and parenthood have become separated, and married parenthood has become a minority occurrence.

2. The separation of marriage and parenthood in those countries is disastrous for children because of higher rates of break-up among cohabitors.

3. Allowing gay marriage accelerates the separation of parenthood and marriage.

4. If the U.S. allows gay couples to marry, heterosexual people in the U.S. will adopt European-style family dynamics.

In fact, none of these claims fits the actual evidence of the Scandinavian and Dutch experience and the U.S. context. A closer look at the data reveals a very different picture:

Divorce rates have not risen since the passage of partnership laws, and marriage rates have remained stable or actually increased.

The majority of parents are married. The average Scandinavian child spends more than 80% of his or her youth living with both parents—more time than the average American child.

Non-marital birth rates have not risen faster in Scandinavia or the Netherlands since the passage of partnership laws. Although there has been a long-term trend toward the separation of sex, reproduction, and marriage in the industrialized west, this trend is unrelated to the legal recognition of same-sex couples. Non-marital birth rates changed just as much in countries without partnership laws as in countries that legally recognize same-sex couples' partnerships.

MARRIED PARENTS ARE STILL THE MAJORITY IN SCANDINAVIA

Marriage and child-bearing have become less directly connected over time in many European countries, including Scandinavia. But as we shall see, this separation hardly qualifies as the death of marriage, and it cannot be blamed on the passage of same-sex partner laws.

In fact, Denmark's longterm decline in marriage rates turned around in the early 1980's, and the upward trend has continued since the 1989 passage of the registered partner law. Now the Danish heterosexual marriage rates are now the highest they have been since the early 1970's. The most recent marriage rates in Sweden, Norway, and Iceland are also higher today than they were in the years before the partnership laws were passed. The slight dip in marriage rates in the Netherlands since 2001 is the result of a recession-induced cutback on weddings, according to Dutch demographers, and the actual number of marriages has gone up and down in the last few years, even before the legalization of same-sex marriage.

No research suggests that recognizing same-sex couples' relationships caused the increase in marriage rates. But heterosexual couples in those countries were clearly not deterred from marrying by the legalization of same-sex couples' rights.

Divorce rates also show no evidence of harm to heterosexual marriage from partnership laws. Scandinavian divorce rates have not changed much in Scandinavia in the last two decades. Danish demographers have even found that marriages in the early 1990's appear to be more stable than those in the 1980's.

Cohabitation rates are indeed on the rise, though, as is the likelihood that an unmarried cohabiting couple will have children. In Denmark, the number of cohabiting couples with children rose by 25% in the 1990s. Roughly half of all births in Norway, Sweden, and Denmark, and almost 2/3 in Iceland, are to parents who are not married. From these figures, Kurtz concludes that ''married parenthood has become a minority phenomenon.''

In fact, however, the majority of families with children in Scandinavia and the Netherlands are still headed by married parents. In 2000, for instance, 78% of Danish couples with children were married couples. If we also include single parent families in the calculation, almost two-thirds of families with children were headed by a married couple. In Norway, 77% of couples with children are married, and 61% of all families with children are headed by married parents. And 75% of Dutch families with children include married couples. By comparison, 72% of families with children are headed by married couples in the United States.

How can this fact coexist with high nonmarital birth rates and cohabitation rates? The main reason is that in Scandinavia and the Netherlands most cohabiting couples marry after they start having children. In Sweden, for instance, 70% of cohabiters marry after the birth of the first child, most of them within five years. In the Netherlands, while 30% of children are born outside of marriage, only 21% of children under one live with unmarried parents, and by age five, only 11% live with unmarried parents. As a result, high rates of married couple parenting and rising marriage rates in Scandinavia are not incompatible with high nonmarital birth rates.

THE IMPACT ON CHILDREN

Kurtz claims that the rise in nonmarital births will hurt children since unmarried couples are more likely to break-up than married couples. And it is true that unmarried cohabiters' unions are more likely to dissolve in Scandinavia than are marriages, even when children are present. But when cohabiting parents marry in Scandinavian countries, as most eventually do, they are not more likely to divorce than are couples who were married when they had their children.

As a result, children in Scandinavian countries still spend most of their lives with their parents living together. In fact, they spend more time than kids in the U.S. do! Gunnar Andersson has calculated how much time the average child spent living with both parents in the same household in the 1980's, the most recent period that allows comparisons across countries. Of the countries he examines, the lowest average is in the United States, where the time spent with both parents is 67%. The highest is in Italy, where it is 97%. In Sweden the average is 81%, in Norway it is 89%, and in Finland it is 88%. In other words, combining the time that parents are cohabiting and married demonstrates that children are spending the vast majority of their young lives with their parents in the Scandinavian countries.

DID GAY MARRIAGE WIDEN THE SPLIT BETWEEN PARENTHOOD AND MARRIAGE?

No one would argue that marriage plays the same role in Scandinavia and in other parts of Europe that it once did. And to his credit, Kurtz himself recognizes that changes in marriage in Scandinavia were in many ways cause rather than effect of the legal recognition extended to gay couples. Kurtz acknowledges that high rates of cohabitation and the changing role of marriage in Scandinavia probably made it more likely that those countries would be the innovators in giving marriage-like rights to gay people. The decline of religious practice and belief, the rise of the welfare state, advances in contraception and abortion, and the improving economic status of women—all long-term trends in Scandinavia and the Netherlands—probably contributed both to the rise in cohabitation and to the equalizing of rights for gay and lesbian people.

In a recent study, I compared the cohabitation rates (and other variables) in the nine countries that recognize same-sex partners with other European and North American countries that do not. Cohabitation rates were higher in the partner recognition countries before the passage of same-sex partner

laws. Since higher cohabitation rates came first, it would be inappropriate to blame partnership laws for more cohabitation.

But Kurtz also makes the subtler claim that registered partnerships ''further undermined the institution'' (his emphasis) and that ''gay marriage has widened the separation'' between marriage and parenthood. In other words, things were already bad but gay marriage made it worse.

However, this argument does not hold up, either, since the nonmarital birth rate began rising in the 1970's, long before any legal recognition of same-sex couples, and it has actually slowed down in Scandinavia in recent years. From 1970 to 1980, the Danish nonmarital birth rate tripled, rising from 11% to 33%. It rose again in the following decade, but by a much smaller amount, to 46% in 1990, before ending its climb. Denmark's nonmarital birth rate did not increase at all when the Danish partnership law was passed in 1989. In fact, it actually decreased a bit after that date!

Norway's big surge in non-marital births also occurred well before the passage of its registered partnership law in 1993. In the 1980's, the percentage of births to unmarried parents rose from 16% to 39%. In first half of the 1990's, the nonmarital birth rate rose more slowly, leveling off at 50% in the mid-1990s.

Kurtz argues that the main impact of partner registration laws in Norway was to discourage couples from marrying after the birth of their first child. But the data on second, third, and later babies born to unmarried parents tell the same story as the overall trend. In 1985, 10% of second and later babies had unmarried parents, a number that tripled to 31% by 1993. From 1994 to 2003, though, the number only rose to 41% where it appears to be leveling off. If the partnership law had ''further'' encouraged nonmarital births of first or later children, these rates should have increased faster after 1993, but in fact the increase slowed down (for second and later births) or stopped (for first births).

The Netherlands show a slightly different pattern, but here, too, there is no correlation between recognition of same-sex partnerships and rising rates of non-marital births. Despite high rates of cohabitation, the Dutch have traditionally been much less likely than Scandinavians to have babies before marriage, with fewer than one in ten births to unmarried parents until 1988. Kurtz argues that legal recognition for same-sex couples kicked Holland into the Scandinavian league with respect to nonmarital parenting. It is true that the Dutch nonmarital birth rate has been rising steadily since the 1980's, and sometime in the early 1990's the nonmarital birth rate started increasing at a somewhat faster rate. But that acceleration began well before the Netherlands implemented registered partnerships in 1998 and gave same-sex couples the right to marry in 2001.

Another helpful perspective is to compare the trends of countries that have a partner registration law with those that do not. I recognizing gay couples contributed to the increase in nonmarital births, then we should see a bigger change in countries with those laws than in countries without them. Data from Eurostat shows that in the 1990's, the eight countries that recognized registered partners at some point in that decade saw an increase in the average nonmarital birth rate from 36% in 1991 to 44% in 2000, for an eight percentage point increase. In the EU countries (plus Switzerland) that didn't recognize partners, the average rate rose from 15% to 23%—also an eight percentage point increase. The change in rates was exactly the same, demonstrating that partner registration laws did not cause the nonmarital birth rate trends.

Even if we distinguish two kinds of countries—separating out those like the Netherlands with traditionally low nonmarital birth rates from those like Norway with traditionally high rates—we see that there is no connection between partnership recognition and the growth in nonmarital births. The same rapid rise in nonmarital births that that we see in the Netherlands in the 1990s also occurred in other European countries that initially had low nonmarital birth rates. Nonmarital birth rates have soared in in Ireland, Luxembourg, Hungary, Lithuania, and several other eastern European countries—all countries that do not allow same-sex couples to marry or register.

Only one piece of evidence supports Kurtz's argument that partnership created a new wedge between parenthood and marriage, and that piece of evidence directly contradicts Kurtz's ideas about the cause of such a separation. Contrary to what many observers believe, Scandinavian parliaments did not give same-sex couples the exact same rights as heterosexual couples. Quite deliberately, the various Scandinavian parliaments chose to provide legal ties for same-sex couples through a special new legal relationship, not by the simpler path of extending the right to marry to same-sex couples. And the parliaments denied same-sex couples the right to adopt children (including their nonbiological children raised from birth) or to gain access to reproductive technologies. Thus Scandinavian governments did create a wedge between marriage and reproduction, but they did so by design and they did so only for same-sex couples. Despite some loosening of those prohibitions over time, registered partners who want to have children still face legal hurdles that heterosexual married couples do not.

THE IMPACT OF GAY MARRIAGE IN THE U.S.

In the end, the Scandinavian and Dutch experience suggests that there is little reason to worry that heterosexual people will flee marriage if gay and lesbian couples get the same rights. This conclusion is even stronger when looking at the United States, where couples have many more tangible incentives to marry. Scholars of social welfare programs have noted that the U.S. relies heavily on the labor market and families to provide income and support for individuals. In the United States, unlike Scandinavia, marriage is often the only route to survivor coverage in pensions and social security, and many people have access to health care only through their spouse's employment. Scandinavian states, on the other hand, are much more financially supportive of families and individuals, regardless of their family or marital status.

The lack of support alternatives plus the tangible benefits of marriage all lead to one conclusion: if and when same-sex couples are allowed to marry, heterosexual couples will continue to marry in the United States.

CONCLUSION

Overall, there is no evidence that giving partnership rights to same-sex couples had any impact on heterosexual marriage in Scandinavian countries and the Netherlands. Marriage rates, divorce rates, and nonmarital birth rates have been changing in Scandinavia, Europe, and the United States for the past thirty years. But those changes have occurred in all countries, regardless of whether or not they adopted same-sex partnership laws, and these trends were underway well before the passage of laws that gave same-sex couples rights.

Furthermore, the legal and cultural context in the United States gives many more incentives for heterosexual couples to marry than in Europe, and those incentives will still exist even if same-sex couples can marry. Giving same-sex couples marriage or marriage-like rights has not undermined heterosexual marriage in Europe, and it is not likely to do so in the United States.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I want to thank our ranking member for yielding me this time.

Mr. Speaker, I oppose this constitutional amendment because it would write discrimination against gays and lesbians into our Nation's Constitution. This amendment not only prevents gays and lesbians from marrying; it also restricts civil unions. Over the last couple of years, polls in New Jersey have shown the majority of the State's residents strongly support civil unions.

This amendment is nothing more than red meat for the conservative right 1 month before an election. They know it is not going anywhere. The Senate could not even get a simple majority to bring an amendment to the floor. Here in the House, the majority leader, the gentleman from Texas (Mr. DELAY), recently admitted that he did not believe the amendment would pass. Yet here we are today spending 2½ hours debating an amendment that we all know is going nowhere.

There was a lot of talk on the Republican side today about the Founding Fathers. Well, since our Nation's infancy, family law has been left to the States. It was our Founding Fathers' belief that issues of intense local concern should be debated and resolved at the local level. We should keep it that way and defeat this amendment.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. ISTOOK).

Mr. ISTOOK. Mr. Speaker, I am here to speak in favor of the Marriage Protection Amendment, in favor of limiting marriage to the union of a man and a woman, in favor of the overwhelming opinion of the American people, and against the unelected judges that want to reshape our country, even if they destroy democracy in the process.

Families and children deserve the protection of the Marriage Protection Amendment; the best home for kids is one with a mom and a dad. Single parents work valiantly to raise their children, but it is a struggle whenever a child does not have both a mom and a dad at home.

Our laws should recognize and promote stability in our homes.

But when judges usurp the work of legislators, when they twist State and Federal constitutions, as they have on this issue, then they are attacking more than marriage. They are attacking the principles of democracy and undermining our republican form of government. They are attacking the people's ability to govern ourselves. No wonder it is hard to raise children to

respect and obey the law when our judges do not.

Those who do not respect the law should never be appointed as judges, and judges who do not respect the law should be impeached.

But today, we have the opportunity to stand up, both for marriage and for the people's right to govern themselves. It is sad that a constitutional amendment is necessary; but without it, we will be under endless assault by those who want to destroy traditional marriage even if they destroy the rule of law in the process.

Even if you do not respect the institution of marriage, I hope the Members of this body will respect the principle of government of the people, for the people, and by the people. This amendment preserves what has always been the law of this land, and it preserves the principle of government by elected representatives, not by unelected activist judges. I urge every Member to vote for the Marriage Protection Amendment.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York (Mr. ISRAEL).

Mr. ISRAEL. Mr. Speaker, as some of my colleagues have said, this is about protecting our children.

Do my colleagues know what I want my children to be protected from? From Osama bin Laden. We still do not know whether he is dead or alive. From the anthrax mailer, whom we still have not found. From the 6 million containers that come into our country every year, of which only 5 percent are inspected. From missiles that are being developed in Iran. From missiles that are being developed in North Korea. I want to protect children of parents who today are fighting in Iraq and Afghanistan, some of whom still do not have the protective gear that they need.

Mr. Speaker, I will go home tonight and say to my two children, thank God, we have kept you safe from same-sex marriages; but we have not kept you safe from other threats in the world.

Mr. Speaker, some of us want to make the world safe for democracy; others want to make this world safe for hypocrisy. This resolution is not an act of Congress. It is an act of hypocrisy. It is divisive and should be defeated.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Speaker, I rise today in full support of this body's effort to preserve the sacred institution of marriage.

Children are best served when they are raised and influenced by a mom and a dad, and marriage must continue to be the institution to best raise children and not simply for the desires of adults.

Mr. Speaker, I am the youngest of four boys who feel we were blessed to have a mom that we could look to for her loving and nurturing ways, and a dad to be there, well, when boys will be boys, to know that we had a dad.

And now I am a dad today with a wife and two young girls of my own, two young girls who are blessed to know that they can look to their mom when they need a mom, and they know that they can look to have a dad there when they need a male influence in their lives.

Marriage exists for the well-being of children. It is the only institution that gives kids a mom and a dad. Where do grownups get the right to give their own desires higher priority?

If we redefine marriage, it will harm everyone, especially the children. It will legally repudiate the idea that marriage has anything to do with a family, and will legally embrace the idea that marriage is just an arrangement for the convenience of the grownups.

Now, I am here today to support what is best for the kids. The ideal situation for a child is to grow up with a mom and a dad in a loving, committed marriage. Mothers are better able to provide certain lessons than fathers can, and fathers in turn can provide role models in ways that moms simply cannot.

I think it is time that we rip away all the rhetoric that we have heard and know that this debate comes down to this: it is a choice of being what is in the best interests of our children over the choice of what is in the best interests of a select few adults. The choice is clear. I urge all Members to support our children by supporting the Marriage Protection Amendment.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentleman from Washington (Mr. INSLEE), a very distinguished supporter of civil rights and human rights.

(Mr. INSLEE asked and was given permission to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, have my colleagues ever noticed how reverential, how worshipful people are when they go over to the archives and they file in front of the Constitution? Have my colleagues seen what is in their eyes? Absolute worship of the U.S. Constitution. I think there is one reason for that, because they understand the Constitution does not belong just to us; it belongs to the ages. They realize for that reason they want us to be cautious and conservative about locking into the Constitution something for a fluid America. There are some lessons in history that show that is the right attitude.

In 1912, Jack Johnson, an African American heavyweight boxing champion, had the temerity to marry a white woman. That offended the vast majority of Americans at the time. And as a result, a Congressman came down to this Chamber, and he introduced a constitutional amendment to make it illegal for States to allow an African American to marry a white person. And Congressman Seaborn Anderson Roddenbery stood where I am standing and said in 1912: ''Intermarriage between whites and blacks is repulsive and averse to every sentiment of pure American spirit. It is abhorrent and repugnant to the very principles of a pure Saxon government.''

Now that statement seems a bit unbelievable in 2004, but it was the majority opinion in 1912.

Now, I am not suggesting that these issues are equivalent, but I am suggesting that we ought to be real slow before we put discrimination to prevent States to make their own decisions about employment and retirement benefits for themselves into the Constitution. Where would this country have been if majority sentiment had prevailed in 1912 and discrimination had been put permanently in the United States Constitution?

But there is a more commonsense reason for rejecting this amendment. Anybody who is thinking about voting for this amendment, I would ask you to come down to the well and look at the five words that are carved on the rostrum of the House of Representatives.

□ 1600

There are five words that are carved here, and of all the words that we could have chosen to carve on to the rostrum, do my colleagues know what those five words are? Union, liberty, peace, justice, and the fifth one may surprise some of my colleagues.

The fifth value is tolerance. Tolerance is the value that was selected to put on here, and tolerance is as American as apple pie. Tolerance is carved into the rostrum of the U.S. House of Representatives and intolerance should not be carved into the U.S. Constitution.

Reject this injury to the Constitution. Reject this amendment.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. SAM JOHNSON).

(Mr. SAM JOHNSON of Texas asked and was given permission to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise in strong support of the marriage protection amendment. It is sad even having this debate. Amending the Constitution, we all agree, should only be considered in the rarest of circumstances. However, we are being forced to.

What makes America strong is the American family. What makes American families strong is marriage.

This bill reinforces what marriage has meant since our country's founding. Simply stated, marriage consists of one man and one woman.

The primary responsibility of marriage in the family is parenting. Children need a father. They need a mother for healthy and proper development. Men and women were created to complement each other, and that is most obvious in successful parenting.

Congress cannot allow unelected judges to redefine marriage and the American family, and that is why we

are here today. We have got to put the decision about marriage back into the hands of the American people.

The people of Texas have spoken loud and clear. Texas passed a law which recognizes marriage between a man and a woman, regardless of what the other States might do. Citizens of the Lone Star State do not want people from other States telling them how to live, and they definitely do not want some judge telling them what marriage is.

Back home, we have a popular slogan, ''Don't mess with Texas.'' Well, I have got one for this debate, ''Don't mess with marriage.''

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I thank my colleague for yielding me the time.

Mr. Speaker, I rise in strong opposition to this proposed constitutional amendment. As lawmakers, our responsibility is to preserve the rights and dignity of all Americans. That leaves me to oppose this constitutional amendment that would ban gay marriage.

I support the right of a State or local jurisdiction to give gay and lesbian couples equal marriage rights under the law. This proposal is an unnecessary and divisive attack on the gay and lesbian community. It would dictate that communities deny the equal provision of rights, benefits and responsibilities of partnership for gay and lesbian couples.

This is an unparalleled attempt to force discrimination against a group of Americans. It is antithetical to other constitutional amendments that expand rights for women and African-Americans.

Mr. Speaker, the Constitution exists to protect our rights, not to take them away. This amendment would be the first, and only, amendment to set aside one group of Americans, giving them fewer rights than other Americans. Additionally, it would strip them of rights currently given them by several States.

Gay and lesbian couples deserve to have their commitment honored with the same rights to insurance, health care authority and visitation, adoption and other benefits granted to committed couples.

I thought the days of enshrining discrimination in our laws were long behind us. A century ago, women were unable to file for divorce and could not have owned property. What if we had enshrined that discrimination for all time? Within the last 40 years, interracial marriages were outlawed. Imagine if that had been formalized in the Constitution.

This complete disregard for human rights is not necessary to protect religious freedom in our country either. No church or other house of worship is required to marry couples of the same gender.

The role of the Federal Government in defining the institution of marriage has historically been a limited one, deferring to States and religious organizations. So this is a cruel and callous attempt to disenfranchise a group of Americans for political gain. It calls for the discrimination of a group in a document almost exclusively devoted to protecting and expanding the rights of Americans.

I urge my colleagues to reject this amendment and this attempt to insert bigotry into our Constitution.

Mr. DELAY. Mr. Speaker, I yield myself such time as I may consume.

I would just point out that I have here hundreds of letters from Hispanic pastors, churches, leaders, civil rights leaders; African-Americans, civil rights leaders, pastors, from all over the country. They do not say that the marriage protection amendment is discrimination. In fact, they say just the opposite: It is discriminating to undermine the definition of marriage by judicial fiat.

Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. HAYES).

Mr. HAYES. Mr. Speaker, I thank the majority leader for the time.

Mr. Speaker, I rise today because my constituents are fearful that appointed judges will destroy the institution of marriage. I share their fear and speak with them today in strong support of H.J. Res. 106, the Marriage Protection Amendment, and I thank my friend the gentlewoman from Colorado (Mrs. MUSGRAVE) for her outstanding leadership on this critical issue.

Marriage has always been and will always be a covenant between one man and one woman. Marriage is a fundamental building block of society, and it is special. It has been from the beginning of time about procreation and the rearing of children.

I wish that this fight here today was not necessary, and we did not ask for it, but because a handful of activist judges launched an all-out attack on the bedrock of Western civilization, the people of the eighth district of North Carolina, in a completely bipartisan way, have overwhelmingly asked me to stand here today and defend our Constitution and to protect marriage.

Mr. Speaker, I believe in the Constitution. I have read it and studied it. We do not amend this lightly, but with activist judges writing law from the bench with their so-called interpretations, I can think of no better reason nor venue for the American people to be heard on whether the institution of marriage will stand or fall.

Do not be fooled. Same-sex marriage and this debate is not about hospital visitation rights, joint bank accounts or inheritance rights. It is about marriage and children.

Marriage between one man and one woman is associated with a broad array of positive outcomes.

Americans have spoken clearly, and it is not about politics. It is about their desire to protect marriage from unelected judges who are appointed for life. I urge my colleagues to stand with nearly 2,000 of my constituents who have contacted my office over the past few months and protect the institution of marriage.

Mr. Speaker, I represent folks from both sides of the aisle in the eighth district of North Carolina. They do not see it as an issue for one political party. They want to defend our institution of marriage.

Mr. Speaker, I appreciate the time. I urge my colleagues to stand and protect marriage today.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from Massachusetts (Mr. CAPUANO).

Mr. CAPUANO. Mr. Speaker, I thank the gentleman from Michigan (Mr. CONYERS) for the time.

I am standing here as living proof. I live in a district. I have been married for 30 years. I have two wonderful children. I now have the honor of representing, I do not know how many, married gay couples, and not once, not once has my wife and I had a discussion now that we have to split up because we have gay couples living near us. Not once have I had a single discussion by a single constituent who said, you know what, I am not going to get married because we can have gay marriage. Not once have I had a single child come to see me and say, oh, my God, save me, save me from having gay couples next door.

Yet I have had people, heterosexual couples, come to me and try to help them bring children from around the world so that they can enjoy the company and the love that they can share with children. I know gay couples, both married and not married gay couples, who are raising children. Some of those children are theirs. Some of those children are adopted. Some of those children are the children of their family members who have passed away.

I am not aware of any that are somehow being twisted; society is coming to an end. I am living proof; you will be okay. We will survive this, and all that will happen is that a few people, a few of all of our constituents, will have some joy in their life.

I am not threatened. My wife is not threatened. My children are not threatened. My world is not threatened, and it will not be. It is not threatened in Canada.

As a few points of information, these judicial activists, these terrible, horrendous people who have the audacity to interpret the Constitution of Massachusetts, happen to be appointed by Republican governors. Terrible.

As a final point of information, the people of Massachusetts will most likely have the opportunity to vote on this in a few years. Let them speak as well.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Speaker, I thank the gentleman for the time and rise in support of the Marriage Protection Amendment.

There, again, needs to be the general statement that gays and lesbians have a right to live as they choose, and I will work to support that right, but they do not have the right to define marriage for all of us.

As far as the question of bigotry and civil rights, 60 percent of African-Americans oppose same-sex marriage. Are they bigots? I do not think so.

Shelby Steele, an African-American scholar, said properly, ''Gay marriage is simply not a civil rights issue. It is not a struggle for freedom. It is a struggle of already free people for complete social acceptance. Black leaders . . . have distanced themselves from the gay marriage issue.''

We have had a little lecture on tolerance, and yet it is the side of the people who are arguing against this marriage act who have called death threats in to the original sponsor. It is those people who e-mail daily hateful comments. I wonder where the question of tolerance is at this point when someone dares to differ with them.

There is a question of, who gets harmed from same-sex marriage? When we approve same-sex marriage, we are going to be required to teach that it is okay. In fact, it is going to be wrong to teach against it. If we think that that is not going to happen, look at what has happened to the Boy Scouts of America who dared to take a stance. The all-out assault on the institution of the Boy Scouts of America has been unending, trying to get them to change their stance, simply saying, we want to teach our values.

Religious groups like Catholic Charities or Salvation Army may lose their non-profit status and other facilities unless they endorse gay marriage. Is that what we want? Do we want common, decent, God-fearing people to be declared as bigots, to be declared as speakers of hate speech?

That is where this discussion is going, Mr. Speaker. I urge my colleagues to support this amendment.

Mr. CONYERS. Mr. Speaker, no one has been closer in this Congress to Dr. Martin Luther King than he has, and I proudly yield 2½ minutes to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my colleague for yielding me the time.

Ms. WOOLSEY. Mr. Speaker, will the gentleman yield?

Mr. LEWIS of Georgia. I yield to the gentlewoman from California.

Ms. WOOLSEY. Mr. Speaker, I thank the gentleman from Georgia for yielding.

For those of my colleagues who are so worried about unelected judges making the decision of marriage, I want to remind them; it was unelected judges that picked their President.

Mr. LEWIS of Georgia. Mr. Speaker, over the years, this Nation has worked hard to take discrimination out of the Constitution, and today, we want to put it back in.

I can recall just a few short years ago that there were laws inscribed in some State constitutions saying that blacks and whites could not marry. We changed that.

Today, we look back on those days, and we laugh. There will come a time when generations yet unborn will look back on this Congress, look back on this debate, and laugh at us. This is not a good day in America. This is a sad day in the House of the people.

For one who faced death, who was beaten and left bloody and unconscious at the Greyhound bus station in Montgomery, Alabama, in May of 1961; for one who had a concussion at the bridge in Selma on March 7, 1965, demonstrating, trying to end discrimination, segregation and separation, this is not the way.

This is unbelievable. It is unreal. I thought as a Nation and as a people we had moved so far down the road toward one family, one House, one America. To pass this legislation would be a step backward.

The institution of marriage is not begging this Congress for protection. No one is running through the halls of Congress. No one is running around this building saying protect us.

□ 1615

Whose marriage is threatened? Whose marriage is in danger if two people, in the privacy of their own hearts, decide they want to be committed to each other? Whose marriage is threatened? Whose marriage is in danger if we decide to recognize the dignity, the worth and humanity of all human beings?

The Constitution is a sacred document. It defines who we are as a Nation and as a people. Over the years, we have tried to make it more and more inclusive. We cannot turn back. We do not want to go back. We want to go forward. Today it is gay marriage; tomorrow it will be something else.

Forget about the politics; vote your conscience. Vote with your heart, vote with your soul, vote with your gut. Do what is right and defeat this amendment.

Mr. DELAY. Mr. Speaker, I yield myself such time as I may consume to say that there were people running around the halls screaming ''protect marriage.'' In fact, there were 50 African American pastors trying to meet with the Congressional Black Caucus, who refused to meet with them. So I am going to bring up one letter out of hundreds of thousands of letters that I have from particular pastors.

From this particular pastor, Dr. Creflo A. Dollar of the World Changes Ministries at College Park, Georgia, and I will not read the letter, but I will quote him, because he says that this is not a civil rights issue. This is an African American pastor from an African American church. Dr. Dollar says, ''This is not a civil rights issue, as many would have you believe, and attempts to frame it as such are an insult to the millions of Americans who have been the victims of actual discrimination in the past.''

Mr. Speaker, I submit for the RECORD Dr. Dollar's letter.

It is a privilege for me to voice my enthusiastic support for the Federal Marriage Protection Amendment currently pending before Congress. The institution of marriage is a fundamental building block of the American way of life, and we are here today to say that it must not be allowed to be redefined or reconstituted. The American family is under attack—we are in the middle of a character crisis that threatens the very foundations of our society—and our message this morning is clear. There is only one kind of marriage, and that is between a man and a woman. Any attempt to deviate from that standard by any means—be it legislative, judicial or executive—is equivalent to spiritual treason. The sacred covenant of marriage was created by God Himself and is not subject to interpretation by anyone.

Our support for this amendment should not be viewed as homophobic, exclusionary or discriminatory. The ministries represented here today extend the love of God to all people, including those who exemplify lifestyles that we don't agree with, and our doors are open to everyone. To attempt to categorize our collective stance in any other way is both irresponsible and inaccurate. This is not a Civil rights issue, as many would have you believe, and attempts to frame it as such are an insult to the millions of Americans who have been the victims of actual discrimination in the past. Part of what makes America the greatest country in the world is the freedoms that our citizens enjoy to make whatever religious, social, professional and lifestyle choices they desire, within the reasonable boundaries of a civil society. However, for America to redefine herself for every movement that comes along would weaken who we are as a nation, not to mention the profound negative impact such a change would have on our children. We speak as one voice for the millions of Americans in our congregations and all over the country who can all be heard making the same plea today—please don't begin a process of de-stabilizing the United States of America by changing the rules for all of us in order to accommodate a few of us. For mainstream Americans, this issue is not negotiable.

We urge the members of Congress to approve this amendment and to do it swiftly. Part of the responsibility of an elected official is to represent the best interests of his or her constituency, and we affirm today that the Federal Marriage Protection Amendment is the right thing to do for America. We wholeheartedly support President Bush and his stance on this vital issue. We must seize this opportunity to make a lasting statement to all who would alter the fundamental institution on which our society is based. I shudder to think about the America my grandchildren will inherit tomorrow, if we don't take decisive action to protect our heritage today. We are confident that the members of Congress will stand up for what is right, and not allow themselves to be bullied by a noisy minority. Our future as a nation hangs in the balance. Thank you and God bless you . . .

Mr. Speaker, I yield 1½ minutes to the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Speaker, I stand before you today on behalf of the over 100,000 married couples in Wyoming in defense of traditional marriage. I do not judge those who have chosen a different life-style than I have chosen, but marriage is an institution cherished by the American people, as shown by the 44 States that have enacted laws defining marriage as between a man and a

woman. This same institution is now under attack in our courtrooms, an assault we can defend only by passing the Marriage Protection Amendment.

In the marriage debate, we have a case of political correctness going too far and costing too much. As we all work to be an inclusive society, we simply cannot forget the time-honored family values, the bedrock of our culture that have made America what it is today. These are the values that gave the early homesteaders in Wyoming the strength to brave the vast plains and the harsh winters. And these same values help today's families face newfound challenges in a modern society.

Tradition gives our children roots, a base of strength from which to operate when facing politically correct pressures to abandon their values, whether it be God, their country, or, yes, even marriage.

We know in our hearts what is right. We know logically and we know personally that marriage is a union between a man and a woman, and we need to protect the traditional family structure.

Mr. Speaker, I ask everyone's support in favor of the Marriage Protection Amendment.

Mr. CONYERS. Mr. Speaker, I yield 15 seconds to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, I thank the gentleman for yielding me this time. I just want to set the record straight here. Some of these so-called black ministers and so-called civil rights leaders never supported civil rights. They never marched for one day. They never put their bodies on the line for the cause of civil rights.

Coretta Scott King, the widow of Martin Luther King, Jr. is opposed to this amendment.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the very courageous gentleman from Connecticut (Mr. SHAYS), a distinguished member of this body.

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding me this time. Today, we are debating a constitutional amendment drafted not to protect my marriage or my family, I see no reasonable way to argue it would, but rather to explicitly deny a portion of our society the right to marry and the benefits that accompany that kind of partnership.

I do not advocate the legalization of gay marriage, but our constitution is simply not the proper place to set this kind of social policy. I believed back in 1996, when I voted for the Defense of Marriage Act, and I still believe today, the decision about whether to recognize gay marriage should be left to the States.

I cannot help but wonder why are we doing this. What are we so afraid of? Gay men and women pass through our lives every day. They are wonderful teachers and leaders and role models who happen to be gay. And sometimes we do not even know they are gay.

I would not be a Member of Congress today if it were not for an extraordinary teacher I had in high school, 40 years ago. I learned years later he was gay and that he had commuted from Connecticut to Washington, D.C., every weekend in part to protect his privacy and his job.

When I went to college, my understanding of gay people was impacted again by my wife's best friend. One day she told us she too had found the love of her life. We were eager to meet the boyfriend she was so madly in love with, but we soon learned her love was not a ''he'' but a ''she.'' Once we got over our surprise and our way of thinking about relationships, we were able to sincerely rejoice in the joy they brought each other because we knew what a dear and good person our friend is.

My perception of gay people evolved further during my first campaign for Congress, when I worked with a magnificent young man named Carl Brown. He became my friend, and he gave me another gay face to know. Carl has since passed away, but I remember him as a person of exceptional dignity and grace.

My teacher, my wife's best friend, and Carl helped me understand their lives and I think helped make me a better person in the process.

The Constitution of the United States, which established our government, grants us free speech, and gives all citizens the right to vote, should not be dishonored by this effort to write into the Constitution discrimination.

I am sensitive to some of my colleagues' concerns about potential biblical and social implications of legalizing same-sex marriage, but I oppose this proposed amendment because I believe the Constitution is not the proper instrument to set or reject such policy. That debate should happen in our State legislatures.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE) to answer the gentleman from Connecticut's question about what is the harm, and his other question being why the harm of redefining marriage to include other lifestyles.

(Mr. PENCE asked and was given permission to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in the wake of, I think, a very important question by my friend and colleague, the gentleman from Connecticut (Mr. SHAYS): What are we afraid of? And the gentleman from Connecticut knows that I admire him and have great affection for him and the integrity with which he does his work, but I would like to answer that.

My colleague, we are afraid of the decline of marriage. We are afraid that what has happened in the last 15 years in the Netherlands since the advent of same-sex marriage is going to happen in America, and that our children and our society will be harmed as a result. As Dan Quayle first said on the national stage some 14 years ago, we know that marriage matters to children. Children born outside of wedlock are more than two times more likely to fall into every form of social malady that besets our kids.

The experience in the Netherlands is undeniable. Since the advent of same-sex marriage in the Netherlands and in Holland, the decline of marriage has been from 95,000 to 82,000. As Dutch academics wrote in their newspapers there recently: ''Over the past 15 years, the number of marriages has declined substantially. The same period also witnessed a spectacular rise in the number of out-of-wedlock births. In 1989, one in 10 children were born out of wedlock, roughly 11 percent; by 2003 that number had risen to almost one in three children.''

That is what we are afraid of, Mr. Speaker. We are afraid of the decline of marriage and the attendant harm to the American family that will undeniably follow. Marriage matters. And we come into this hallowed place today to stand by that institution knowing that we are informed by our core values that it matters and that it is central to our society, but also knowing the experience of our neighbors in Europe has been that when we change the definition of marriage, we begin the decline and ultimately the abolition of marriage as we know it.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, the previous remarks are drawn from the research of a man named Stanley Kurtz, research that is of a very low level of intellectual activity. It would make some of the debate here today seem scintillating.

In fact, I have submitted information that makes it very clear that as far as the Netherlands are concerned, the trends involved predate same-sex marriage. As a matter of fact, there were same-sex civil unions first, then same-sex marriage. What has happened in the Netherlands predates that. The main author himself states that these are probably effects of the same cause.

Now, let us look to the United States. Vermont has had full civil unions, which most of the Members over there disagree with, since 2001, with zero, no negative effects, the same period of time as the Netherlands has had.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1 minute to the gentlewoman from Minnesota (Ms. MCCOLLUM).

Ms. MCCOLLUM. Mr. Speaker, the men and women targeted by this constitutional amendment are Americans, loved and respected by their parents, grandparents, sisters, brothers, children and grandchildren, neighbors, friends, coworkers, and this Member of Congress. Collectively, we believe in

equal justice and strive to defeat discrimination and absolutely reject the State-sponsored hatred before the Congress today.

The Constitution belongs to all Americans to protect and extend equality and justice for all. Our constitution must never be soiled by this type of bigotry and hate-filled amendment.

My faith teaches me to believe in a loving God, and it is in this spirit that I proudly stand with millions of Americans, and especially with my gay and lesbian friends, neighbors, colleagues, constituents, and coworkers to oppose this constitutional amendment.

Mr. DELAY. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Speaker, I thank the majority leader for yielding me this time, and I want to make a correction for the record.

The gentleman from Massachusetts was talking about the predating the same-sex marriage. Well, in fact, when same-sex marriage was approved in the Netherlands, the rate of births out of wedlock doubled. So that information was incorrect.

Mr. Speaker, I rise in support of the Marriage Protection Amendment. It is becoming increasingly common to see activist judges legislating from the bench on this important issue. Today, a handful of judges are poised to destroy the traditional marriage definition, which is the cornerstone of civilization itself.

The institution of a husband and wife, of mother and father, have served our society well; and it is this foundation that makes our families and communities strong. Passage of this amendment today is overwhelmingly supported by the citizens of this country. Nearly three-fourths of Americans believe that marriage should be a union between one man and one woman.

Today, 44 States have enacted laws that define marriage as between a man and a woman; and without action today, the will of the American people will be ignored with the strike of a gavel by a few activist judges.

To ensure the will of the American people is done today, I urge my colleagues to vote ''yes'' on this amendment.

Mr. CONYERS. Mr. Speaker, I yield 10 seconds to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I would just ask the gentleman from Pennsylvania, before he leaves, because he is so certain about the Netherlands, and I will yield him my remaining time, when does he believe that same-sex marriages began in the Netherlands and what was the rate? What is the date?

Would the gentleman from Pennsylvania answer me? When did the same-sex marriages start in the Netherlands?

The SPEAKER pro tempore (Mr. SIMPSON). The time of the gentleman from Massachusetts has expired.

Mr. SHUSTER. Mr. Speaker, if the gentleman will yield to the gentleman from Indiana.

Mr. FRANK of Massachusetts. Well, you made the statement. You do not know?

Mr. SHUSTER. 1989.

Mr. FRANK of Massachusetts. No, they started in 2001.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. SHUSTER. That is what the facts show.

The SPEAKER pro tempore. The gentlemen will suspend.

Mr. CONYERS. Mr. Speaker, I yield 5 seconds to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. The gentleman gets the date wrong. He said since 1989. Same-sex marriage started in the Netherlands in 2001.

When Members are giving statistics, they ought to know what they mean.

□ 1630

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Speaker, when the other body defeated this amendment early this summer, someone one of the Senators on the majority, said gay marriage is ''the greatest threat to America as we know it.'' Coming from New York City, I think America saw what the greatest threat to this country is on September 11, 2001. But instead of capturing those responsible for that event, Osama bin Laden, Mullah Omar, and the al Qaeda network, instead of passing a homeland security bill here in the House, instead of reforming our national intelligence system to prevent another 9/11, we are here talking about an issue that the Senate has already defeated; and because they have defeated it, it will not come up again. This is purely political machinations.

This Congress and this President are pushing for a constitutional amendment to limit the rights of particular Americans. Why are they doing that? The answer is easy but it is still awful; because today in America, it is still okay to hate gays and lesbians in this country. Gays and lesbians represent the last minority group in this country that it is still publicly acceptable to hate. This legislation has no place in this body. It demeans the body, our Constitution, and the values of this country.

Mr. DELAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman obviously has not been watching the debate because no one has said anything about hate or the quotes the gentleman stated in this body. This is about marriage.

Mr. Speaker, I yield 1 minute to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Speaker, the gentleman from Georgia said what he wanted to do, he wanted to establish a homosexual marriage as a fundamental constitutional right that the Federal Government would have to not only secure but to protect. That is what he wants to do. When he does that, here is why we are opposed to that. When he does that, he undermines, he not just expands marriage, he alters it to the core. He totally severs it from its whole purpose, and that is the relationship between a man, a woman, and a child.

Marriage is one of the most fundamental institutions of a civil society. That would simply cripple it. We are not talking about expanding a right, extending rights or benefits. We are talking about destroying an institution which has preserved and protected us.

Our decision today will define us as a Nation. It will define us as a people. It will be a predictor of our future and where our future would be. The only responsible thing for us to do today is to defend the institution of marriage and send this amendment to the States for ratification.

A concerted legal and political effort, lead by activist judges, is attempting to affirm homosexual marriage as a fundamental civil right that the Federal Government has a constitutional obligation to secure and protect.

In doing so, they are undermining one of the most basic and sacred institutions that exist in an orderly, stable civil society—marriage.

What is happening is not a slight change in degree that merely extends benefit or rights to a larger class, but a substantive change in the essence of the institution. It does not expand marriage; it alters its core meaning, for to redefine marriage so that it is not intrinsically related to the relationship between fathers, mothers, and children would sever the institution from its nature and its purposes.

In response, the most important and responsible step Congress can take to reserve marriage is to send a constitutional amendment that protects the institution of marriage to the States for ratification.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, we have heard this afternoon about children and activist judges, because that is how the focus groups suggest this debate should be framed.

My children have been raised around people in committed same-sex marriages, relationships in some cases which have included children. They, and most of us, have seen neighbors, relatives, and friends in dysfunctional heterosexual marriages. It is not their sexual orientation, it is people's behavior. My children and most American young people know that marriage is not under attack, and activist judges do not prevent citizens in States from making their own decisions, like we will in Oregon in November.

It is shameful to play politics with the personal lives of millions of Americans who are not just gay, but elderly, and for whatever reason are not married but are in a committed relationship. Luckily, because my children and the vast majority of America's youth disagree with the world view of the

supporters of this amendment, it will not only fail today, but it certainly does not represent the future.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. BURNS).

Mr. BURNS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, we have an obligation to the people of America to settle this debate over whether a handful of political activists are allowed to use the Federal courts to impose their moral view on the unwilling majority of the country.

The overwhelming majority of the people of the 12th Congressional District of Georgia oppose legalized same-sex marriage. They do not want to play semantic games about the issue.

The people in my district and State believe that legal marriage, and the benefits associated with the institution, should be reserved for those whom the benefits were intended, the union of a man and a woman, period.

Georgia has placed a referendum for a State constitutional amendment to that effect on this November's ballot lot. That is how it should be. As a Georgia voter, I will support the amendment with my vote, as will the majority of my State.

The Federal amendment we consider today will allow those State decisions to determine this issue, as they have since our Nation's founding, rather than allowing a small minority to dictate their opinions on an unwilling majority.

We need to speak plainly here today. A vote against this legislation is a vote for legalized same-sex marriage to be forced on an unwilling America. Such a calamity would not just be morally reprehensible to the majority of Americans, it would provide a chilling precedent for undermining our system of self-government. We will pay for inaction on this issue with the loss of government by the people on all issues.

I urge my friends on both sides of the aisle to support the amendment to restore the protections of the Constitution and self rule.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, in a few minutes this body is going to vote on this amendment. There will be women voting as well as men. There will be the grandsons and granddaughters of slaves; and, yes, there will be several gay people voting because in our diversity, we are representative of this great society.

But there is one thing we all have in common, we are here to fulfill the spirit of our Constitution. That is a sacred, generous document whose purpose was to protect and to expand the individual rights and liberties of its citizens. It was never intended to be a mean-spirited tool to punish people who happen not to be in the majority. To legalize committed, caring relationships between people who love each other is consistent with the spirit of that Constitution. This amendment is not, and that is why it should be defeated.

Mr. DELAY. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma (Mr. SULLIVAN).

Mr. SULLIVAN. Mr. Speaker, I rise in strong support of House Resolution 106. Today, public support for protecting marriage is strong. Forty-four States have enacted laws that provide that marriage shall consist of a union between a man and a woman. These States constitute more than 75 percent of States required to approve a constitutional amendment and they include 86 percent of the U.S. population.

Today, Federal courts are being used by activist judges to redefine marriage for the American people, completely apart from public debate among those that the American people have elected to represent them.

More than 200 years of American law and thousands of years of human experience should not be arbitrarily changed by a handful of unelected judges. The issue of marriage is too important to be decided by judicial fiat.

Our society relies on strong family structure. As trends challenge the family, we need to do all we can to strengthen it and oppose trends that weaken this ideal. Redefining marriage hurts our children because it hurts the institution we rely on to raise our children. We certainly do not want judges changing the definition of marriage for us today and for our children tomorrow.

Mr. CONYERS. Mr. Speaker, I yield 45 seconds to the gentlewoman from New York (Ms. VELÁZQUEZ).

Ms. VELAZQUEZ. Mr. Speaker, there are many reasons to oppose this bill: It is a diversion from the urgent issues facing our Nation; that today's vote is a cheap election-year tactic of the Republican leadership to rally its right-wing base; and that we should respect States rights on the principles of federalism, which Republicans continue to ignore to suit their political purpose.

Mr. Speaker, each of these concerns is a compelling reason to oppose this measure, but I want to make this perfectly clear: This bill should be defeated because it is wrong, it is discriminatory, and it is unAmerican.

Mr. Speaker, how can we export democracy across the globe when we are abandoning its fundamental principles here at home? Writing discrimination into our Constitution will do nothing to protect marriage, but it will taint this sacred document and sacrifice State rights based on certain ideological beliefs, and I urge my colleagues to defeat this mean-spirited, misguided bill.

Mr. DELAY. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, the Marriage Protection Amendment would not prevent any State from enacting civil union laws, but would protect marriage in all 50 States.

Recently, I went to a friend, Mr. Sage Brown, who is a distinguished attorney and civil rights leader in Savannah, Georgia. Indeed, he is featured at the Gilbert Civil Rights Museum as a man who was on the frontlines of integration and did so much for the African American community. I asked him, Is this a civil rights-type issue, to which he said no, the relationship of marriage is the most sacred building block of our society. Marriage is sacred and protected and has nothing to do with violating our civil rights.

If we change the definition of marriage to be more inclusive, then is it logical to argue that we should broaden the definition so we do not exclude anybody? If marriage violated the civil rights of two men or two women who wanted to be married to each other, then it would also violate the civil rights of a polygamist, somebody else who wants to have a different marriage than that between a man and a woman.

Mr. Brown raised a number of good points which I am going to submit for the RECORD. I wish there was more time to have debate on it, but I wanted to bring up something from his point of view.

Mr. Speaker, the Marriage Protection Amendment would not prevent States from enacting civil union laws but would protect marriage in all 50 States. It would state that "marriage in the United States shall consist only of the union of a man and a woman." When I hear my distinguished colleagues from the other side say that marriage should be redefined because it is discriminatory, I respectfully disagree. Moreover, I believe that a great majority of Americans disagree.

I've spoken with many minority men and women in my district who have experienced civil rights abuses first hand. Recently, I spoke with Mr. Sage Brown, a distinguished African American civil rights leader from my district who said and I quote:

> The relationship of marriage is a most sacred building block of our society. Marriage is sacred and protected and has nothing to do with violating our civil rights. It is not a question of whether or not a person can enter into a relationship such as a civil union. Our country was formed by a group of people who were persecuted for believing certain fundamental things. They looked at their creator in terms of the defining foundation for our families . . . and this foundation included the marriage of a man and a woman. The installation of marriage was wholly designed for the production, reproduction and propagation of the family.

Our marriage laws—defining marriage as the union of a man and a woman—were designed to be a blessing to children and society. There is a certain element of complementarity between men and women that is biological by nature.

If marriage violated the civil rights of two men and two women who want to be married, then it also violates the civil rights of polygamists, and of single adults who want to marry themselves. If our distinguished colleagues believe it is a civil rights issue, then do they also believe it discriminates against people who believe in polygamy. Does it also discriminate against three men who want to marry? What about four women? What about

single people who don't want to marry another person? Should they be excluded?

If we change the definition of marriage to be more inclusive, then it is logical to argue that we should broaden the definition so that won't exclude anyone.

Marriage is an institution fits in perfect harmony with the laws of nature; whereas systems of slavery and segregation were designed to brutally oppress people and thereby violated the laws of nature. By contrast, marriage is designed to help children by keeping their mothers and fathers together. Slavery and segregation were meant to exploit and degrade. There is a fundamental difference.

Skin color has nothing to do with marriage. That's why it's wrong to forbid interracial marriage and that's why overturning these laws was a legitimate civil rights issue. But whether a couple is a man and a woman has everything to do with the meaning of marriage. Marriage encourages the men and women who together create life to unite in a bond for the protection of children. That is not discrimination. It is the building block on which society is based.

Marriege was not created to place people in bondage. It was created for having children, and to propagate the human race from one generation to the next.

The union of a man and woman is the most enduring human institution—which has been around since the origin of mankind. It is honored and encouraged in all cultures and by every religious faith.

Ages of experience have taught humanity that the commitment of a husband and wife to love and to serve one another promotes the welfare of children and the stability of society. Marriage cannot be severed from its cultural, religious and natural roots without weakening the good influence of society. Government, by recognizing and protecting marriage, serves the interests of all.

Moreover, it would prevent the judicial chaos we are beginning to see with recent rulings whereas gay couples are suing in States that do not recognize same sex marriage. Recently, Oregon conducted over 3,000 same sex marriages consisting of couples who live in over 30 States.

Lawless local officials have ignored the law and issued same-sex licenses in California, New Jersey, New York, New Mexico, Oregon and Washington. This issue is Federal, not State or local. The States' rights issue is meaningless if judges are the ultimate rulers.

We are headed for a proliferation of court cases in all 50 States if we do not act now.

So far, 44 States, or 88 percent of the States, have enacted laws providing that marriage shall consist of a union between a man and a woman. Only 75 percent of the States are required to approve a constitutional amendment.

Mr. CONYERS. Mr. Speaker, I yield 45 seconds to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, 2½ hours for a debate on amending the Constitution. It is so important that we contemplate that ministers, rabbis, priests can marry anybody they choose to. They can deny marriage to the opposite sex. But the reality is what about amending the Constitution to guarantee quality education to every child in this country; what about amending the Constitution to guarantee health care to every person in this country; what about amending the Constitution so that our colleagues around here could not spend this time talking about a moral issue instead of giving people jobs and giving them an opportunity to protect marriage? Marriages fall apart because people do not have work.

What about amending the Constitution so we can guarantee all kinds of rights to all people? Give me a break.

Mr. Speaker, I rise in strong opposition to H.J. Res. 106, the constitutional amendment on same sex marriage.

African-American voters are deeply divided on the issue of gay marriage and increasingly suspicious of Republican motives around the issue. Currently, 46 percent favor the amendment, while 46 percent oppose. Gay marriage should not be used as a wedge issue to divide any community, especially the African-American community. And guess what? In a June Gallup poll, issues related to the gay community were cited by 2 percent as the most important problem facing the U.S.—compared to other issues, such as the war in Iraq which was cited by 27 percent of the public.

The current administration's policies have devastated our communities. With unemployment in the African-American community double the national average, crime on the rise, and working families struggling to feed and keep their families together, we can't afford to lose focus and be bamboozled by Republicans who want to change the subject. Mr. Speaker, as of September 24 the gross Federal debt is $7.348 trillion. I submit to you that we cannot afford a whole host of things.

The American public wants Congress to focus on real issues facing our Nation—the economy, health care, protecting our homeland and education. To date, Congress has approved only 1 of 13 appropriations bills, despite the fact that a new fiscal year begins tomorrow.

We must focus our energy on good jobs—3 million lost in the last 3 years; better education; improved healthcare since 41 million don't have it; sound transportation funding; and turning around our communities—not about gay marriage.

Mr. Speaker, the administration has indeed captured the Nation's religious leaders on this issue because it does mirror concepts in various scriptures of their religious doctrines. Notwithstanding, it is precisely for that reason that we, in this august body, must resist the temptation to have the State engage in a religious battle. Separation of church and state is the basic principle of this Nation and it exempts us from this unnecessary action. Separation of church and state gives ministers, rabbis, imams, priests, reverends—you get my drift—the freedom to practice their faith and choose to marry, or more importantly not marry, any two people before them.

In these times of spreading war and hate, people of faith must reject politicians who say they are acting out of faith: But are they really? When one wears the cloak of one's faith on your sleeve, it almost automatically calls in question your motives. People who talk about right, justice, compassion and religion are in fact using those sentiments to contradict or undo the very teachings of their faith.

Mr. Speaker, this is not compassionate; it is not tolerant; it is not charitable; it is not inclusive. This is nothing short of divisive and political. Instead of dividing us, our leaders should make redemption, understanding and love the foundation of their policies because we are all sinners.

I believe it's time to start bringing people together to work on the real issues of faith and moral commitment that confront our communities like poverty and homelessness instead of changing the Constitution to deny equal rights to the gay community.

With record high unemployment, crime on the rise, and working families struggling to keep their families together, it's time to bring people together to turn our communities around.

We need to focus on real policies.

Amending the Constitution is the most far-reaching step that legislators can take in governing the citizens of this country, and it is my belief that the Constitution should be the instrument that protects and guarantees the rights of individuals; it should not be used to limit the rights of individuals. The defeat of this legislation is tantamount to the preservation of human rights in this country.

Mr. Speaker, I vehemently oppose H.J. Res. 106 and I will continue to do so until it is defeated.

Mr. CONYERS. Mr. Speaker, I yield the balance of my time to the gentlewoman from California (Ms. PELOSI) to close.

Ms. PELOSI. Mr. Speaker, I thank the gentleman from Michigan (Mr. CONYERS) for yielding me this time, our distinguished ranking member on the Committee on the Judiciary. I thank him for his leadership in promoting freedom in our country and protecting our civil liberties.

Mr. Speaker, I have been married for over 41 years. I want to hear some applause for that. I am glad to see my Republican colleagues appreciate that wonderful accomplishment. I certainly respect the institution of marriage. As the mother of five and the grandmother of five, I appreciate the value of family.

□ 1645

My husband and I value family in our community as a source of strength to our country and a source of comfort to the people. What constitutes that family is an individual and personal decision. But it is for all a place where people find love and support. As for me, I agree with Vice President CHENEY when he said, ''With respect to the question of relationships, my general view is that freedom means freedom for everyone. People ought to be free to enter into any kind of relationship they want to.'' That would be Vice President DICK CHENEY, August 24, 2004.

Mr. Speaker, in the closing days of this Congress, we should be addressing the urgent needs of the American people, to be secure against the clear and present danger of terrorism, to protect our men and women in uniform whose lives are in the battle in Iraq, and to bring economic prosperity and health care to the American people. Instead, we are meeting here today about tarnishing our cherished Constitution

with an amendment that purports to protect marriage but is one that benefits no one and actually limits the rights of millions of Americans.

Our Constitution, to which we all take an oath of office, is an enduring and living document that throughout our history expanded rights, not diminished them, to live up to the ideals of our Founding Fathers, that all are created equal and endowed by their Creator with inalienable rights to life, liberty and the pursuit of happiness. As that great defender of the Constitution, the late Congresswoman Barbara Jordan whose legacy graces this House, noted, ''We promised liberty, freedom and equality to everyone. No one was to be excluded from the blessings of liberty.''

As a result, this Nation abolished slavery, established equal protection under the law, extended the right to vote to women and ended the poll tax. Today, we consider an amendment that runs counter to that inclusiveness that underlies our history: one Nation under God, indivisible; and e pluribus unum, from many, one; and in the words of the Constitution, to form a more perfect Union.

This amendment has been brought with the full knowledge that it failed in the other body with no prospects of success, either now or in the foreseeable future, in this body. This is a partisan exercise to distract the American people from the Republicans' record of failure. And it is unworthy of a party that claims to be associated with President Lincoln, one of the greatest Presidents of the United States.

The consideration of this amendment does not call upon the better angels of our nature that President Lincoln spoke of in his first inaugural address. It calls upon the worst impulses of politics by attempting to enshrine discrimination into the Constitution and to single out a group of American citizens. And it is unworthy of a party that claims to be associated with President Lincoln once again who said in his second inaugural address, which I consider to be Lincoln's greatest speech, ''With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive to finish the work we are in, to bind up the Nation's wounds.''

This amendment is malicious and is not charitable toward anyone. It is motivated by animus towards lesbians and gays. It is a sad moment that those clinging to power want to use to divide the American people for what they perceive to be an electoral advantage. I will vote against this amendment because it is counter to the noble ideals of our Nation.

On substance, the amendment is far reaching to deny all matters of rights, even beyond marriage. The proponents have disingenuously claimed that this amendment would not preclude civil unions or domestic partnerships. At the same time, organizations supporting this amendment are now using similarly worded State laws to challenge recognition of domestic partnerships in several States. And we know these organizations, which the Republican leadership is beholden to, will not stop there. Because this amendment is not limited to governmental action and would apply to all private contracts, existing rights enjoyed by same-sex couples, such as hospital visitation, inheritance rights and health care benefits would be at risk if this amendment were to pass. This amendment is dangerous, and it does not belong in our Constitution.

Throughout our careers, many of us in Congress on both sides of the aisle have fought against discrimination in every form and sought to bring people together. I will vote again against this amendment because again it is counter to the noble ideals of our Nation and of the principle of ending discrimination and unifying our country. Whatever one's view of same-sex marriage, and I know that that is a difficult issue for some, I understand that, amending the Constitution is not the place to address this issue. Let us not defile our Constitution with an amendment designed to demean a group of American citizens. Let us not use our Constitution as a political tool to divide us. We are a better country than that and that is why this amendment will fail today.

The American people will see through the motivations behind this amendment. It is to distract the American people from the record of failure of this Republican Congress, a record that has been, according to editorials today, marked by ''shambling to the end of one of the lightest workloads in decades without a hint of embarrassment'' and ''failing at the most demanding obligations of government.''

Mr. Speaker, let us strive to unite people, to seek the best in ourselves, and to attend to the grave and great issues now before us. Let us honor our Constitution, let us honor our children, let us honor all God's children. Let us follow our better angels and reject this amendment.

Mr. DELAY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I know some wanted to pick a fight here today, trying to get us to talk about same-sex marriage, about homosexuality and all those kinds of things. We did not talk about them because that is not what this is about. What this is about is the family and the definition of family, so I will define it for you: a family is a man and a woman that can create children. Peter and Paul cannot create children. Mary and Jane cannot create children. It is about regenerating and re-energizing our population by being able to create children.

But more than that, it is about responsibility. A family is a man and a woman that can create children and rear them. It is how we create communities. It is how we transfer our values to our children, because if you destroy marriage and people do not get married, several things happen: first of all, men are let off the hook. Men can have the sex but not the responsibility of raising the children. That has happened in our society and societies in Europe and others. If you take away the responsibility, why should a man get married? But if he has a commitment with the woman, the mother of his child, then he realizes the responsibility of trying to raise that child. He also provides something more than Mary and Jane can provide. Mary and Jane can be great mothers and there are many of them that are great mothers. Peter and Paul can be great fathers. But Peter and Paul cannot be a mother. And Mary and Jane cannot be a father. The reason that one man and one woman is necessary to rear children is so that they can receive the benefits that a man can give them and that a woman can give them. They can see the commitment between a man and a woman, the trust that is committed between the two, the love. But more important than that, it is how that man and that woman transfer their values to their children.

It is also how each family can transfer its values by families coming together as communities and transferring those values to those communities. So when you ask the question, what harm is it, the harm is if nobody gets married and they are having children out of wedlock, which has already been said, children born out of wedlock are more likely to have all the maladies of societal ills, whether it be quicker on drugs, dropouts. We know. Every social ill can come down on these children. If that happens, then we are not transferring our values to communities and from communities to States. Our values as a Nation start with one man, one woman having children. That is what is at stake here. That is what is harmful.

You say, well, I am married. I am married for 37 years. I am very proud to be married. I have a daughter and a grandson. The point is that these breakups of marriage, and it is showing in the Netherlands and in Scandinavia, it is showing right here with all the pressures against marriage over the last 40 or 50 years, whether it be welfare or divorce. Divorce is a pressure against marriage. And when we take the responsibility for a marriage and do no-fault divorces, you are undermining marriage and making it easy to undermine marriage.

All the results of that we have seen. The welfare system was a great experiment. What we saw was fathers not marrying the mothers of their children, just having many children by many mothers and not responsible for raising these children, leaving these children to mothers and grandmothers and aunts to raise. And then we see the deterioration of their lives because they are raising themselves because their mothers and aunts and grandmothers have to work in order to raise

them to pay for the family, so they are raising themselves, no values, nothing. Gangs form because of that. Gangs become the substitute for families. Everybody knows that. If you get busted by a gang or mugged by a gang, that is the result of undermining marriage.

That is the problem. It is nothing about same-sex marriage, or single moms or any other kind of marriage. Those are wonderful. There are wonderful families being raised by gay people. There are wonderful families by single moms. But they are not the ideal. The ideal is established in our Constitution and in our society. We want the ideal.

So when the Massachusetts Supreme Court redefines marriage based upon not law, based on thin air, because we have these activist judges coming in to impose their definition of marriage on our society, we get a little concerned, because we have seen it before.

We did not stand up before and there have been 45 million children killed, unborn children killed, because we did not stand up to activist judges responding to a strategy of using the courts to legislate. Every leader of the groups that are opposing this legislation has announced to the world that they are going to take this to the U.S. Supreme Court. They are already doing it. There are 11 court cases right now. Nebraska has been overturned, Washington State, Massachusetts. There is a huge, huge effort in every State in this Union, even though 44 States in this Union have protected the definition of marriage.

They are after those State constitutions; and when they get at those, or using the full faith and credit clause, they can go to the Federal courts and then it begins. Then DOMA comes down. Then the United States Supreme Court, who has already signaled that they are going to, through Lawrence v. Texas, redefine marriage in this country, will amend the Constitution and redefine marriage.

We are starting the effort today. Yes, it may not pass today. I wish it would. It may not pass today. This is only the beginning, I am telling you, because this Nation will protect marriage.

□ 1700

This Nation knows, this Nation knows, that, if you destroy marriage as the definition of one man and one woman creating children so that we can transfer our values to those children and they can be raised in an ideal home, this country will go down.

So, believe me, everybody in this country is going to know how you voted today. And they are going to know how you stood on the fundamental protection of marriage and the definition of marriage. And we will take it from here, and we will be back. And we will be back. And we will be back. We will never give up. We will protect marriage in this country.

Mrs. LOWEY. Mr. Speaker, I rise in opposition to this amendment.

I am opposed to a constitutional amendment that would discriminate against any American. In more than 200 years of American history, the U.S. Constitution has been amended only 17 times since the Bill of Rights—and in each instance, it was to extend the rights and liberties of the American people, not restrict them.

The Federal Marriage Amendment could deny gay and lesbian couples and their children basic rights, protections, and benefits like hospital visitations and inheritance. It could also overturn civil unions and domestic partnership rights already enacted by some state and local governments. This amendment runs counter to my strong belief that all people should be entitled to equal protection under the law, regardless of ethnicity, gender, religion, or sexual orientation.

I urge my colleagues to let this debate unfold where it should: in our homes, in our synagogues and churches, in our courts, and in our hearts. I urge my colleagues to vote against this amendment.

Mr. MARKEY. Mr. Speaker, oil prices are approaching $50 a barrel, more than 1,000 young American men and women dead in Iraq, 6,000 wounded.

What are we debating here on the floor of Congress? We are talking up a bill to inject discrimination into the Constitution of the United States of America. Apparently, the Republican Congress believes that the fact that some States want to recognize the loving relationships of gay and lesbian couples is such a threat to our country that they are prepared to take the extreme measure of amending the Constitution.

Conservative activist Paul Weyrich shed some light on the current thinking in Republican circles which explains why this bill is really on the floor today. Here is what Mr. Weyrich had to say:

> The President has bet the farm on Iraq. Right or wrong, he has done it. Even if you disagree with the decision, you have to admire the President for putting it on the line and staying the course despite overwhelmingly bad news for months now.
>
> Therefore, Iraq will be an unavoidable topic of discussion in this campaign. The problem is that events in Iraq are out of the control of the President.

Mr. Weyrich writes, ''There is only one alternative to this situation: Change the subject.'' He dismisses the option of taking up oil prices or the economy. Apparently, even he does not think those are winners for the President.

''No,'' he concludes, ''what I have in mind to change the subject is a winner for the President. The Federal Marriage Amendment.'' The gay marriage issue, he gleefully advises, ''will cause Senator KERRY no end of problems.''

So that is what it is really all about. Republican leaders in Washington are running scared. They look at the polls on Iraq, on the economy, on jobs and they fear that the voters are going to rise up in November and toss them out of office, and as a result they bring up a resolution to alter the most sacred document in the land.

The Constitution was written to ensure that all Americans are treated equally. This provision will undermine that principle and tarnish the Constitution. I believe that any State should have the right, if it so chooses, to grant same-sex couples or unmarried couples the same legal rights as those conferred to heterosexual couples. This is the same policy supported by Vice President DICK CHENEY who stated during the 2000 Presidential election that same-sex marriages should remain a State issue and the Federal Government should recognize those State laws.

Vote ''no'' on this bill. It is a disgrace against the United States Constitution.

Mr. WEXLER. Mr. Speaker, this amendment would not only ban same-sex marriages but also civil unions, and I cannot support such a divisive and extreme measure. A majority of Americans rightfully recognize that same-sex couples who are committed to a lifelong relationship should enjoy all of the civil benefits that come with marriage. Being able to make medical decisions for an incapacitated partner, inherit property without large tax penalties and receive Social Security survivor benefits are examples of the civil aspect of marriage that are denied to same sex couples but are wholly unrelated to religious concerns.

Not only does this amendment completely disregard these basic liberties but it actually erodes the religious freedom upon which our great nation was founded. I am not alone in this grave concern. A coalition of 25 national religious groups—from the American Jewish Committee to the Alliance of Baptists, from the Episcopal Church to the Conference of American Rabbis—all believe that this amendment does more to erode religious freedom than preserve it.

An amendment restricting marriage to certain couples would be the first time in history that rights were denied solely to one group of Americans. Mandating discrimination in the Constitution would set a terrible precedent. Everyone in America should be concerned about who will be next.

Mr. MCDERMOTT. Mr. Speaker, today shame looms over this body. Today you place legislation before us to amend the Constitution to ensure that same sex marriages can never occur in any State in this country.

This legislation is all about politics. You know that you do not have the votes to pass this proposal. You have said so publicly. This proposal already failed in the Senate earlier this year. You know you do not have the time to spend on this proposal: the new fiscal year begins tomorrow and the Republican leadership has only managed to get 1 of 13 required appropriations bills passed. But you're going to make time for one reason: to get material for TV commercials.

You want TV commercials to run against Democrats. You think that they'll go nicely alongside the Republican National Committee's mailings saying Democrats want to ban the Bible and the ads that say that decorated war veterans are un-American traitors if they oppose the policies of the present occupant of the White House.

This vote is about hurting Democrats running for reelection. You want to hurt those of us opposed to amending the Constitution to deny gays and lesbians the rights that the rest of us enjoy, but the real hurt is unleashed on some of our nation's families: the millions of gay couples and lesbian couples, and their children.

People on both sides of this issue have sincere and deep feelings that deserve to be taken seriously. But today's vote mocks their concerns: they think you are out here on the floor to discuss who will be allowed to be a family in America, when you are really out here to work on who will be a Member of Congress after the election.

Today's vote is about Republicans toying with the emotions of a nation that genuinely

cares about commitment, about families, and about the institution of marriage. To the Republicans, our Nation's emotions—our fear and our worries—are to be employed and manipulated for their reelection campaigns.

The House of Representatives's rules are governed by the Jefferson Manual, and the majority has the right under our rules to bring this measure to the floor. But Jefferson's greatest manual was the Declaration of Independence, which reads in part, ''We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness.'' Exactly how that part of our Nation's creed will play out as our citizens grapple with notions of domestic partnerships, civil unions and same sex marriages is yet to be seen. It will certainly not be decided today.

Nowhere in the Declaration does it say that these rights are only for white, heterosexual men.

Jefferson opened the doors of liberty to all of us, Mr. Speaker. It's a disgrace that this body is using Jefferson rules to attempt to undo Jefferson's and the Western World's most profound achievement—acknowledge that we are all equal.

Mrs. BONO. Mr. Speaker, I rise today in opposition of H.J. Res. 106, ''the Marriage Protection Amendment,'' which would amend the United States Constitution, regarding the issue of gay marriage. As someone who has consistently revered the United States Constitution, I am very cautious of any efforts to amend this precious document and hold a high standard on what is worthy of this extensive process.

H.J. Res. 106 defines marriage within the United States as ''the union of a man and a woman,'' and I believe in this core philosophy. However, it is imperative that we preserve the integrity of the United States Constitution and do not dilute it with our political agendas and preferences. Although I do not support gay marriage, I do not feel that this issue renders the need to amend the United States Constitution. Neither would I support an amendment to the constitution that would give gay couples the right to be married.

Moreover, if enacted, the Marriage Protection Amendment would severely limit State rights. It precludes States from granting marital status or the ''legal incidents thereof'' to unmarried couples. The Federal Government should respect the rights of individual States, and should not be in the business of deciding whether States may grant the benefits of marriage to unmarried couples. It is the prerogative of States to make their own decision on whether to take on the burden of providing such benefits.

For all these reasons, I oppose this constitutional amendment.

Mrs. DAVIS of California. Mr. Speaker, I am disappointed that we are here today to debate this amendment.

As a strong supporter of civil rights protections, I am extremely concerned about the devastating implications of this legislation.

I am concerned because I believe that every individual deserves to be treated with respect, and our Nation's laws should be used to promote civil rights, not limit them.

In addition, the United States Constitution should be modified only in the most rare and necessary of circumstances, and those circumstances simply do not exist here today.

Amending this sacred document that has governed us for centuries has only been done 17 times in our Nation's history—and those changes have served to protect our rights as Americans.

Now is not the time to depart from that tradition by threatening the basic principle of equal treatment under the law.

And speaking of tradition, Mr. Speaker, we have heard a lot today about the value we should place only upon ''traditional'' marriage.

I would ask those who support this amendment so strongly to talk to the countless special needs children of this country, who have been adopted by caring and nurturing same-sex couples, what ''traditional'' means to them.

Although special needs children are a special gift to this world and to any family, it is often same-sex couples who are most willing to welcome these children into their homes.

If not for these couples, many of these children would never experience the value of a loving, stable home and the unconditional support of a family.

I am willing to venture that if any one of us asked any one of these special needs children if they would prefer two mothers—or two fathers—or no family at all, that choice would be simple.

And that is because there is no exact formula for creating a loving family. The only thing you need for certain is love.

Are we really challenging whether or not that love can exist in a home with two mothers or two fathers? I certainly hope not.

Mr. Speaker, we are still trying to bring peace and stability to Iraq and are losing more and more American lives in this process every day. Our economy is struggling under a $400 billion deficit. And we have a long way to go to get American workers back into meaningful work and to continue improving the education of our children.

It is regrettable that we have decided to overlook these pressing national needs to take up an amendment that I believe threatens healthy American families in our country today.

If it is truly our hope to protect the best interests of our children, we will join together to oppose this dangerous and unnecessary amendment.

Mr. VAN HOLLEN. Mr. Speaker, the question facing this Congress today is simple and straightforward. Should we amend the Constitution of this great Nation to restrict the rights and limit the freedoms of citizens of the United States. Our Constitution has been used to protect the rights of the minority against the sometimes discriminatory impulses of the majority. We must not today write discrimination into the very Constitution that has stood as a bulwark against discrimination. We must not enshrine injustice into a document meant to serve justice.

I don't often agree with Vice President CHENEY, but on this issue he is right. This issue should be left to our State legislatures.

This Nation confronts many pressing challenges—the war on terrorism, jobs and the economy, and the many other issues that demand our attention. We should not be spending our time on a divisive, politically motivated issue that responds to a non-existent problem.

Mr. HOLT. Mr. Speaker, I rise to express my strong opposition to H.J. Res. 106, the Marriage Protection Amendment.

Fredom. Equality. Inalienable rights. These notions are so enshrined in our national psyche that it becomes easy to think that they are just words, that we have attained these ideals, that there is no need for action, that all the battles for freedom and against discrimination have been fought and won.

But measures like the one we are considering today bring us back to reality and remind us how far we must go to achieve acceptance and fully equality under the law. Some in this Nation refuse to view this amendment as a blight on our democracy or as a measure that is in direct opposition to the ideals put forth by our Founders. They ignore that this amendment denies a minority population certain basic freedoms and continue to purport that our Nation's values and the institution of marriage is being threatened.

I certainly agree that the institution of marriage and a cohesive family unit are vital to the health of our communities and the success of our society. I strongly support initiatives such as TANF, which assist families and better our communities. Unfortunately, the amendment we are debating today does nothing to strengthen the bonds of matrimony, nor does it strengthen families or enhance or communities. In fact, it divides our communities, and sends a message of hate and contempt to a minority population and informs them that their government considers them to be second class citizens.

No one should be denied the opportunity to choose his or her life partner. It is a basic human right. It is a deeply personal decision. Throughout history, we have only moved forward when society has distinguished between traditional values and valueless traditions. Attacking gay couples who want to share lifelong obligations and responsibilities undermines the spirit of love and commitment and sends the wrong message to society.

In addition to the misguided policy of legislating a sensitive moral issue, this amendment is a misuse of the Constitution. The Constitution has been amended only 27 times in its more than 200 years. With the exception of the Eighteenth Amendment, which was later repealed, these amendments have reaffirmed and expanded individual freedoms and the specific mechanisms that allow our self-government to function. The amendment that we are considering today opposes this spirit of progress and reverses our movement towards extinguishing institutional discrimination that has harmed minority populations throughout our history.

I hope my colleagues will consider the cost this amendment will have on our democracy and more importantly the message it sends to those that are being judged by their government. I urge my colleagues to vote against this amendment.

Ms. KILPATRICK. Mr. Speaker, I rise today in opposition to H.J. Res. 106, the Marriage Protection Amendment under consideration by the House, and stand in support of the Constitution.

My opposition to this amendment is based on my fundamental support for the Constitution, which has been amended only 17 times to broaden as opposed to limiting the rights of Americans. When I took my oath of office, I committed to uphold the Constitution. Today's debate and consideration of this bill is a concerted and direct assault on the beloved Constitution. We are in effect debating and voting

on a bill that will do absolutely nothing to promote the institution of marriage. Our deliberation will not ensure that our most precious resource, children, the fruit of marriages between men and women, will be protected by passing this legislation.

Our efforts today are nothing more than a symbolic act that will not result in any appreciable change in current law. The Republican majority knows that this House will not pass this measure with the two-thirds majority vote necessary for it to be enacted. Previously, the Senate defeated a similar measure. Finally, there is absolutely no change that three-quarters of the states would pass a law to support amending the Constitution on this subject.

A federal amendment would intrude on the jurisdiction of state courts to establish rules for marriage. States rights are the philosophical and procedural cornerstone of the judicial framework utilized by state courts. If we pass this amendment in the House, we will be undermining the authority of state courts, and enabling the federal government to override the jurisdiction of those states.

This measure will not ensure that marriage couples will protect our children from abuse or ensure that marriages between men and women will endure and not end in divorce. It is for the reasons outlined, that I cast a no vote against this amendment, and a vote to continue to support the Constitution.

Mr. ORTIZ. Mr. Speaker, I rise in support of the ''Marriage Protection'' Constitutional amendment.

In the past, I have supported legislation that defines marriage, and keeps the control of the institution of marriage within each State in the Union. I don't believe in gay marriage, and supported the Federal statute Congress passed in 1996 making sure one State does not have to accept a marriage license not issued in their State.

Amending the Constitution is a grave matter, given it's only been amended 27 times in the history of this Republic, actually, 17 times excluding the Bill of Rights, the first 10 amendments to the Constitution were adopted along with the original Constitution.

I am opposed to amending the Constitution generally, and remain concerned about the repercussions of opening up our precious founding document to amendments about social issues.

But I have heard from thousands of my constituents in south Texas who believe the matter of marriage raises to the importance of including this definition as the 28th Amendment of the Constitution. I have heard the voices of south Texans on this matter.

We can never legislate the way people are born or the way they will live their lives. But we can make a statement today on the importance of marriage by passing this amendment and urging the Senate and three-fifths of the States to do the same.

I urge my colleagues to support the amendment as well.

Mr. HOSTETTLER. Mr. Speaker, I rise in opposition to this proposed Amendment to the Constitution of the United States.

Marriage is designed to be between a man and a woman, period. It is not for two women, nor for two men. It was for this reason that I authored the Marriage Protection Act, which passed in the House in July.

Nevertheless, I cannot in good conscience support this amendment.

I have two primary concerns.

The first is the potential this amendment has to federalize domestic relations law, that is the law of families, parents, custody, etc., all of which are now handled in the States.

Let me say at the outset that I am not among those who believe that marriage cannot be defined in our Constitution under principles of federalism.

But I am deeply concerned that we may unintentionally be doing far more than simply defining marriage.

By setting forth marriage in the Constitution will we also set forth the basis upon which some future Federal court claims the ability to enter into all forms of domestic relations law now reserved to the States? I say it is very plausible.

In fact, I thought it so plausible that I offered an amendment in the Committee on Rules this week to address this issue. My amendment would have added the following new section to all text:

Nothing in this amendment grants any new legislative authority to the Congress of the United States or any new judicial power to the Supreme Court of the United States or any court created by Congress.

This amendment was not made in order.

Without some limitation, I fear a future where the entire realm of domestic relations law, be it marriage, divorce, child custody, paternity determination, adoption—you name it—will become fair game for a future Supreme Court.

Without some limitation on Federal power to assume all family law, I simply cannot support the present text.

The second problem with the current amendment arises out of my concern over the nature of marriage and what we are truly trying to protect in this amendment.

The supporters of this amendment contend that they have three goals: prohibit same-sex marriage; stop courts from granting the benefits of marriage to same-sex couples; and, allow State legislatures to enact civil unions or domestic partnerships if they so desire.

Regarding the second goal, that is prohibiting the courts from granting the incidents of marriage to unmarried couples, presumably those in civil unions or domestic partnerships, I contend that here they have simply failed.

They have failed because in introducing H.J. Res. 106, they have only restricted the courts from improperly construing State or Federal constitutions.

Unlike the original H.J. Res. 56, they have dropped the requirement that courts refrain from construing State or Federal law in the granting of the incidents of marriage to same-sex couples.

Hence, under this amendment any court, for any reason short of a constitutional one, may simply grant the incidents of marriage to unmarried couples and this amendment will not stop them.

At this point, one might say, shouldn't we match our amendment to that voted upon in the Senate in July? I say why? That amendment did not even obtain a majority of votes for cloture. My friends, it is dead.

As I said, the authors of this Amendment had three goals concerning the incidents of marriage. The third goal was to allow, yes allow, the legislatures in the States to enact civil unions or domestic partnership laws.

I ask those of you from California or Vermont what this Amendment does for you? The answer is nothing. Your domestic partner law in California and your civil union law in Vermont are unaffected.

This Amendment may actually, by restricting the courts' ability to grant the incidents of marriage but remaining silent as to the legislatures, provide a constitutional basis for civil unions. I cannot support this result.

I offered amendments to the Committee on Rules to address both these issues. Again, my amendments were not made in order.

I have not yet addressed the first goal of this amendment, that is to protect marriage.

I suppose that to the extent that marriage is not a mere word, I will concede that the authors met their goal.

But is the goal sufficient?

Let me conclude.

Simply protecting the term ''marriage'' is not enough. Marriage by any name is marriage, whether we call it ''civil unions,'' ''domestic partnerships'' or any other label that may be conjured up.

Marriage is too important to be only about semantics.

We must also be cognizant that while we may today be talking about same-sex marriage, someday in the future we may be laying the groundwork for all marriage issues to become federal.

I submit that given the makeup of the House this Amendment cannot pass. I suggest that if we really care about marriage, that we focus on the other constitutional tools that our founders gave to Congress. Let us remove the federal courts' jurisdiction in this area. Let us cut off the funding of the enforcement of unconstitutional decisions.

All of these means are sufficient to control the judiciary. In fact, by specifically addressing the power of the courts to construe constitutions we are actually giving support to the myth that the courts are already the final arbiters of the constitutions.

We must now allow this to happen. I respectfully urge my colleagues to consider what they are doing here today, including all of the ramifications of this Amendment.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I rise tonight to oppose this blatant attempt to hijack the Constitution of the United States for political gains.

On July 12, 1996 this House of Representatives voted for, and I supported the Defense of Marriage Act. On September 21, 1996 this bill became the Law of the Land as Public Law 104–199.

The Defense of Marriage Act states that ''No State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any other State, territory, possession, or tribe respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State, territory, possession, or tribe, or a right or claim arising fro such relationship''.

I do not support a constitutional amendment to prohibit gay marriage. Historically, amendments to the Constitution have been utilized as a tool to protect or defend the rights and liberties of American citizens. Two prominent examples include the 13th Amendment abolishing slavery and the 19th Amendment giving women the right to vote.

Marriage has historically been in the domain of the States to regulate.

There is no Federal marriage certificate or license needed to be married; however, the

State determines how and when a license is necessary.

I am opposed to this Amendment. I do not feel that the Constitution of the United States should ever be used to limit the rights of citizens. States currently have jurisdiction over marriage, and can outlaw the act of same sex marriage if they choose.

This amendment does nothing to improve the major problems facing marriages today, particularly the Nation's extremely high divorce rate, 50 percent.

The reasons for this vote are politically motivated. At a time when 12 of the 13 appropriations bills, a budget, and transportation funding for the states have not been passed, why are we spending valuable floor time on a bill that has already failed in the Senate?

Do not support this amendment and let us get back to the people's business.

Mr. UDALL of Colorado. Mr. Speaker, I cannot support changing the Constitution along the lines of this proposal—so I will not vote for this resolution.

Under our federal system, there are many matters where the states have broad latitude to shape their laws and policies in ways their residents think fit, subject to the constitution's provisions that protect the rights of individual citizens.

One of those areas has been family law, including the regulation of marriage and divorce—but this amendment would change that.

Adoption of this amendment would for the first time impose a constitutional restriction on the ability of a state to define marriage. And it would do so in a way that would restrict, not protect, individual rights that now are protected by at least some state constitutions.

In my opinion, this is neither necessary nor appropriate.

Some of the resolution's supporters say it is needed so a state whose laws ban same-sex marriages or civil unions will not be forced to recognize such marriages or unions established under another state's laws.

They say this could happen because Article IV of the Constitution requires each state to give ''full faith and credit'' to another state's ''public acts, records, and judicial proceedings.''

But my understanding is that this part of the constitution has not required states to recognize the validity of all marriages of people from other states. In fact, over the years various states have refused to recognize some out-of-state marriages—and the ''full faith and credit'' clause has not been used to validate marriages because marriages are not ''judgments'' but ''civil contracts'' that a state may choose to recognize as a matter of comity, not as a constitutional requirement.

As if this were not enough, in 1996 Congress passed and President Clinton signed into law the ''Defense of Marriage Act.'' That law says ''No State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any State, territory, possession, or tribe respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State, territory, possession, or tribe, or a right or claim arising from such relationship.''

Not everyone thinks this was a good thing for Congress to do—I myself am not sure that it was. But the fact is that this law is on the books and has not been successfully challenged.

Given this history, I am not convinced that this constitutional amendment is necessary to prevent the ''full faith and credit'' clause being used to compel a state to recognize a same-sex marriage.

Moreover, when you focus on the language of the proposed amendment it becomes clear that protecting states is not its real purpose.

That purpose could be achieved by an amendment to the ''full faith and credit'' clause—perhaps by putting language along the lines of the ''Defense of Marriage Act'' into the constitution itself. But that is not what is being proposed here.

Instead, this amendment would restrict states, by establishing a single definition of marriage—the only definition that any state could recognize.

And unlike other constitutional amendments, it would not protect individuals either. It would write into the constitution a new limit on what legal rights they could hope to have protected by a state or the federal government. If adopted, this amendment would restrict individual liberties instead of expanding them. I think it is clear the real purpose of this amendment is to lay a foundation for discrimination against some Americans on the basis of their sexual orientation. In good conscience, I cannot support this.

Mr. Speaker, no proposed constitutional amendment should be taken lightly. On the contrary, I think such proposals require very careful scrutiny and should not be adopted unless there we are convinced that a change in our fundamental law is essential. I do not think this resolution meets that test, and so I will vote against it.

Mr. SERRANO. Mr. Speaker, I rise in strong opposition to the proposed amendment to the Constitution of the United States that would enshrine discrimination in one of our Nation's founding documents and insinuate the Federal government into an area of law and policy that has traditionally been left to the States.

Since the Bill of Rights was adopted, the Constitution has been amended only 17 times. That demonstrates the profoundly conservative approach the American people and their representatives in Congress have taken to changing the Constitution. Polls show that that approach continues today. Even among those who oppose gay marriage, a majority oppose using a constitutional amendment to ban it.

For my part, I believe that a committed couple, regardless of gender, should have the right to participate in a state-recognized marriage or civil union and to enjoy the rights and responsibilities conveyed by that legal relationship. It is in our society's interest that committed couples, whether in ''traditional'' or same-sex unions, be not only allowed but encouraged to form households, have families, and contribute to the health and stability of their neighborhoods and communities.

What religious bodies choose to recognize, sanction, or bless as marriage should be entirely up to them.

There are much more important issues we could be spending this time on. The American people have much higher priorities than this—the misguided effort to bring democracy to Iraq; the faltering economy; the loss of good jobs; the half-hearted, underfunded war on terrorism; the high price of gas; the millions of Americans without health insurance; and so on.

Mr. Speaker, this waste of an afternoon in an effort to pollute our Constitution with language requiring discrimination against a particular group of people, in violation of basic principles of federalism, is just wrong, and I urge my colleagues to show they share my disdain for this charade by voting ''no.''

Mr. OXLEY. Mr. Speaker, today, I stand in support of H.J. Res. 106, the Marriage Protection Amendment. I believe there are strong cultural, historic, and societal reasons for reaffirming the definition of marriage. For centuries, our society has been built upon the tradition that marriage consists of one man and one woman. The institution of marriage is not one made to discriminate, but was created to advocate an ideal home for children. This enduring and cherished institution is the healthiest way to raise strong families. We have to ask ourselves why we would want to change the institution of marriage after it has served human civilization so well over the course of time.

My home state of Ohio has spoken very strongly on this. The state legislature has passed its own Defense of Marriage Act, and I have received hundreds of letters on the issue from my constituents in the Fourth District. I believe there is a strong majority consensus in Ohio for the traditional definition of marriage. It now appears that proponents have received enough signatures through petitions to put this issue on the ballot on Election Day.

I do not take amending the U.S. Constitution lightly. But because of the decision made by activist judges in states like Massachusetts, there is no assurance that existing federal and state defense of marriage acts can remain intact. The American people deserve to be heard through their elected representatives, and that is why it is proper for the House to pass the Marriage Protection Amendment.

Mr. MEEK of Florida. Mr. Speaker, I rise in strong opposition to H.J. Res. 106 before the House of Representatives today.

The Constitution has never been amended to mandate discrimination. It is historically served to expand liberty and equality. This proposed constitutional amendment, if passed, would set a precedent at odds with the values and freedoms upon which the nation was founded. Further, it is an attack on the United States Constitution and the system of government that has made this country so great and has served us so well. Supporters of this resolution complain loudly about the decisions of ''unelected judges,'' but it is important to remember that those very unelected judges are a key part of our system of government—it is how the authors of the Constitution saw fit to protect the rights of minorities.

By trying to amend the Constitution, conservatives are trying to cut off the emerging national debate on same-sex marriage. Amending the Constitution has only been done 27 times before in our history. It is something that is traditionally done only when there are no other options, but the country has only just begun to try to work through this issue.

Even for people who, like myself, believe that marriage is between a man and a woman, this measure does nothing to strengthen or protect those bonds. It seems to me that if a threat exists to marriage, it is that too many of them fail. For every two marriages that occurred in the 1990s, one ended in divorce.

The stresses on marriages today are great, but they don't have to do with the jurisdiction of the federal courts. This bill does nothing to deal with problems like affordable housing, quality education and training, daycare for young children, high costs of gasoline, electricity and food, high unemployment rates and underemployment, and the lack of health care coverage and other benefits that place severe strains on many families.

Today, the very nature of the typical American family is changing. Just as families headed by only one adult were rare only a few decades ago but are common today, non-traditional couples are now a widespread fact of American society. Nearly 200 Fortune-500 companies and numerous municipalities and organizations have already recognized this fact on their own and provide benefits to same sex couples. In addition, several municipalities have adopted local ordinances prohibiting discrimination based on sexual orientation in housing and employment.

This proposed constitutional amendment is heavy-handed and unnecessary. The companion amendment in the United States Senate not only failed to meet the required two-thirds vote for adoption, but it failed to even receive a simple majority of the membership, failing 48–50. At best, it is bad policy that does not get to the core of the problems that face American families today. At worst, it is a ruinous attack at the very foundation of this great country—A Constitution that protects the rights of the individual over the tyranny of the majority.

No matter one's individual beliefs, there can be no excuse to putting limitations on one person's rights for another person's beliefs in a document under which we all live—the Constitution of the United States of America. I hope that my colleagues will join me in opposing this ill-advised, unnecessary, and bad precedent-setting amendment.

Mr. DINGELL. Mr. Speaker, I rise in strong opposition to H.J. Res. 106, the so called federal marriage amendment. This bill would turn over 200 years of state jurisprudence on its head, attempting to federalize marriage.

This resolution is another attempt to mandate one definition of marriage upon the states. I ask my colleagues if we take away this right from the states, what's next? Where does it stop? Take away local decisions for education or child custody issues. Between the consideration of this bill and the court stripping bills that have passed this House, it leads me to believe, Mr. Speaker, this is just another cynical political ploy by the majority during an election year.

Like Vice President CHENEY and former Representative Bob Barr, I believe the voters of each state should decide for themselves who can and cannot marry. It has always been a state function. It should remain so. To take away that right of the state to decide this issue, we endanger basic principles of the federal system in which we live. As our Constitution so eloquently states in the Tenth Amendment of our federal Constitution, ''The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.''

Mr. Speaker, amendment of our Constitution has happened only 17 times since the Bill of Rights was passed. Some of those amendments do not look so good today. Many of those not adopted now look worse. We should not lightly tamper with the perfection, beauty and majesty of our great Constitution. This bill was filed only last Friday, rushed through the Rules Committee on Tuesday night, and voted on today.

There have been no Committee hearings, no time to look at different amendment proposals, and no opportunity to have the important deliberations that should take place when amending the Constitution. We have heard nothing from our concerned citizens and from our Constitutional scholars.

The issue before us today is not whether you are for or against gay marriage. It is whether or not we should federalize marriage and take away the right of the states to define marriage.

Now Mr. Speaker, I supported the Defense of Marriage Act and continue to do so. At this point, the Defense of Marriage Act remains the law of the land. It works. Nothing yet threatens this law.

Those proposing this amendment rely on hypothetical dangers to try and push through a dramatic, but mischievous change to our Constitution. I am opposed to taking away the right of each state to have its citizenry decide how to define marriage. It seems to me too many people are meddling in this matter for political reasons. Let the states continue to decide sound public policy on this subject.

We must never rush to amend our Constitution. Mr. Speaker, I oppose this bill and ask for my colleagues to vote against this iniquitous, politically inspired, and destructive legislation.

Mr. PAUL. Mr. Speaker, while I oppose federal efforts to redefine marriage as something other than a union between one man and one woman, I do not believe a constitutional amendment is either a necessary or proper way to defend marriage.

While marriage is licensed and otherwise regulated by the states, government did not create the institution of marriage. In fact, the institution of marriage most likely pre-dates the institution of government! Government regulation of marriage is based on state recognition of the practices and customs formulated by private individuals interacting in civil society. Many people associate their wedding day with completing the rituals and other requirements of their faith, thus being joined in the eyes of their church and their creator, not with receiving their marriage license, thus being joined in the eyes of the state.

If I were in Congress in 1996, I would have voted for the Defense of Marriage Act, which used Congress's constitutional authority to define what official state documents other states have to recognize under the Full Faith and Credit Clause, to ensure that no state would be forced to recognize a ''same sex'' marriage license issued in another state. This Congress, I was an original cosponsor of the Marriage Protection Act. H.R. 3313, that removes challenges to the Defense of Marriage Act from federal courts' jurisdiction. If I were a member of the Texas legislature, I would do all I could to oppose any attempt by rogue judges to impose a new definition of marriage on the people of my state.

Having studied this issue and consulted with leading legal scholars, including an attorney who helped defend the Boy Scouts against attempts to force the organization to allow gay men to serve as scoutmasters, I am convinced that both the Defense or Marriage Act and the Marriage Protection Act can survive legal challenges and ensure that no state is forced by a federal court's or another state's actions to recognize same sex marriage. Therefore, while I am sympathetic to those who feel only a constitutional amendment will sufficiently address this issue, I respectfully disagree. I am also concerned that the proposed amendment, by telling the people of the individual states how their state constitutions are to be interpreted, is a major usurpation of the states' power. The division of power between the federal government and the states is one of the virtues of the American political system. Altering that balance endangers self-government and individual liberty. However, if federal judges wrongly interfere and attempt to compel a state to recognize the marriage licenses of another state, that would be proper time for me to consider new legislative or constitutional approaches.

Conservatives, in particular, should be leery of anything that increases federal power, since centralized government power is traditionally the enemy of conservative values. I agree with the assessment of former Congressman Bob Barr, who authored the Defense of Marriage Act:

''The very fact that the FMA [Federal Marriage Amendment] was introduced said that conservatives believed it was okay to amend the Constitution to take power from the states and give it to Washington. That is hardly a basic principle of conservatism as we used to know it. It is entirely likely the left will boomerang that assertion into a future proposed amendment that would weaken gun rights or mandate income redistribution.''

Passing a constitutional amendment is a long, drawn-out process. The fact that the marriage amendment already failed to gather the necessary two-thirds support in the Senate means that, even if two-thirds of House members support the amendment, it will not be sent to states for ratification this year. Even if the amendment gathers the necessary two-thirds support in both Houses of Congress, it still must go through the time-consuming process of state ratification. This process requires three-quarters of the states' legislatures to approve the amendment before it can become effective. Those who believe that immediate action to protect the traditional definition of marriage is necessary should consider that the Equal Rights Amendment easily passed both Houses of Congress and was quickly ratified by a number of states. Yet, that amendment remains unratified today. Proponents of this marriage amendment should also consider that efforts to amend the Constitution to address flag burning and require the federal government to balance the budget have been ongoing for years, without any success.

Ironically, social engineers who wish to use federal government power to redefine marriage will be able to point to the defense of traditional marriage through a constitutional amendment as proof that they have the legitimate authority to redefine marriage. I am unwilling either to cede to the federal courts the authority to redefine marriage or to deny a state's ability to preserve the traditional definition of marriage. Instead, I believe it is time for Congress and state legislatures to reassert their authority as a co-equal branch of government by refusing to enforce judicial usurpations of power.

In contrast to a constitutional amendment, the Marriage Protection Act requires only a majority vote of both Houses of Congress and the President's signature to become law. The bill has already passed the House of Representatives; at least 51 Senators would vote for it; and the President would sign this legislation given his commitment to protecting the traditional definition of marriage. Therefore, those who believe Congress needs to take immediate action to protect marriage this year should be focusing on passing the Marriage Protection Act.

Because of the dangers to liberty and traditional values posed by the unexpected consequences of amending the Constitution to strip power from the states and the people and further empower Washington, I cannot in good conscience support the marriage amendment to the United States Constitution. Instead, I plan to continue to work to enact the Marriage Protection Act and protect each state's right not to be forced to recognize a same sex marriage.

Mr. KIND. Mr. Speaker, I rise to express my disappointment that this body has brought the Federal Marriage Protection to the Floor at a time when only one of the thirteen appropriations bills has been passed into law and other important legislation, such as the transportation reauthorization bill and intelligence reform have not yet become law.

This is not to say that I believe the issue of gay marriage to be unworthy of discussion. I understand that some people firmly regard gay marriage as a civil right while others find it antithetical to their religious or moral beliefs. Reasonable people can disagree on this issue, and it is a subject which our country must continue to discuss. In America, however, the authority to grant legal status to a marriage has been a function reserved for the states, and different states have different laws regarding issues ranging from blood-testing to waiting periods before marriage.

Some, including the proponents of this bill, will argue that an amendment to the U.S. Constitution is necessary to keep one state from forcing another to accept same-sex marriages. In fact, this is not necessary because of the 1996 Defense of Marriage Law, which provides that states, U.S. territories, or Indian tribes do not have to recognize same-sex marriages granted by other states. Further, the Act defines marriage, for the purpose of federal benefits and rules, as the legal union between one man and one woman. Therefore, the Wisconsin law which recognizes marriage as a relationship between a husband and wife is protected.

Mr. Speaker, when it comes to amending the United States Constitution, I am very conservative. Like Republican Senator CHUCK HAGEL, conservative columnist George F. Will, and the Republican author of the Defense of Marriage Act, Bob Barr, I am opposed to amending the Constitution for the purpose of outlawing gay marriage. In its 215-year history, the Constitution has been amended only 27 times, and we must not add amendments limiting rights rather than expanding them.

DICK CHENEY has stated ''With respect to my views on the issue, I stated those during the course of the 2000 campaign, that I thought when it came to the question of whether or not some sort of legal status or legal sanction were granted to a same-sex relationship that that was a matter best left to the states. That was my view then. That's my view now.'' (Scripps Howard New Service, January 9, 2004). As recently as August, 2004, Vice President DICK CHENEY, speaking of gay marriage, affirmed that, ''marriage has historically been a relationship that has been handled by the states.'' Like Vice President CHENEY, I do not believe the U.S. Congress needs to intrude on this state issue. Because of my great respect for the Constitution, and for the federal nature of the government which the document dictates, I will vote against this resolution, and I urge my colleagues on both sides of the aisle to do the same.

Mr. CARDIN. Mr. Speaker, I rise in opposition to H.J. Res. 106, a constitutional amendment regarding marriage.

I personally believe that marriage is the union of a man and a woman. In 1996, I voted in favor of the Defense of Marriage Act (DOMA), which became law with President Clinton's signature. The Act defined marriage for federal purposes as a legal union between one man and one woman. The bill also protected states from being compelled to honor another state's law or judicial proceeding that recognizes marriage between persons of the same sex. DOMA is current federal law.

I am therefore puzzled as to why the House leadership has chosen to schedule this matter for a vote in such a hasty manner, without the benefit of a markup in the Judiciary Committee, just one month before Election Day. In July of this year, the Senate rejected this amendment by a vote of 48–50, short of even a majority vote, and much less than the two-thirds vote required to send the amendment to the states for ratification.

This amendment is unnecessary. DOMA is the law of the land which both defines marriage at the federal level and protects states from having to change their own definitions of marriage by recognizing other states' same-sex marriage licenses. DOMA has never been invalidated by any court, and many states have properly used DOMA to refuse to recognize same-sex marriages performed in other states. The decision of the citizens of Massachusetts to authorize same-sex marriages in their state in no way requires the citizens of the state of Maryland to do so.

I am also concerned about the unnecessarily broad scope of the amendment, which states that Federal or State constitutions shall not be construed ''to require that marriage *or the legal incidents thereof* be conferred upon any union other than the union of a man and woman.'' (emphasis supplied). Many State, county and local governments currently provide either domestic partner benefits or civil union benefits to gays and lesbians in their jurisdictions. Such benefits include visiting each other in the hospital, sharing health insurance plans, and rights of inheritance. These benefits—again, decided by local governments and citizens—could be called into question by this Federal constitutional amendment if they are considered ''legal incidents'' of marriage. As compared to a Federal statute, a constitutional amendment limits the ability of Congress to make future changes.

The first sentence of the amendment does not even require State action, which means that private parties—such as religious institutions and private businesses—could be bound by the Federal Government's definition of ''marriage.'' The amendment could therefore call into question the benefits that many companies provide to same-sex partners. I note that a broad array of both civil rights, religious, and business organizations are opposed to the amendment.

Finally, Congress should only adopt a constitutional amendment as a matter of last resort when a statutory approach is ineffective. In this case, that standard has not been met. We have only amended our Constitution seventeen times since the adoption of the Bill of Rights in 1791.

I have consistently supported legislation to protect the civil rights of all Americans, regardless of their sexual orientation. For example, I believe that Congress should make it illegal to terminate an employee solely on the basis of sexual orientation. I believe this amendment is inconsistent with the civil rights currently enjoyed by many gays and lesbians as a result of State and local laws. This constitutional amendment could inadvertently sanction discrimination based on sexual orientation beyond the legal status of marriage.

Mr. CRANE. Mr. Speaker, the institution of marriage is a sacred union between a man and a woman, and with God and the community. That is why I voted for and strongly supported the 1996 Defense of Marriage Act (DOMA), which was passed by Congress by an overwhelming bipartisan margin and signed into law by President Clinton. The Defense of Marriage Act defines marriage as being between one man and one woman, and also provides that no State shall be required to accept a same-sex marriage license granted in another State.

Opponents of this amendment say we are voting too early on this amendment. They say that traditional marriage is protected by DOMA. However, I know that unless this amendment passes, State and Federal judges will overturn laws protecting traditional marriage after this year's election, just as I know tonight the sun will set.

Left-wing activists in at least twelve other States have filed lawsuits like the one that imposed same-sex marriage in Massachusetts. Without a constitutional amendment, judges and local officials will continue to attempt to redefine marriages in their States. A handful of judges are doing the work of a liberal few and forcing us to act to protect what should be a settled matter of law. These judges can strike down the Defense of Marriage Act just as four judges in Massachusetts did earlier this year.

The only way to ensure that the people's voice to be heard is an amendment to the Constitution—the only law a court cannot overturn. The future of marriage in America should be decided through the democratic constitutional amendment process. By passing the Marriage Protection Amendment, the American people will have the final say on marriage in the United States, not a group of judges.

Mr. Speaker, I urge my colleagues to trust the judgment of the American people and allow them to make the final decision on marriage by voting for the Marriage Protection Amendment.

Mr. DELAHUNT. Mr. Speaker, here's the choice. On one hand, a rich constitutional tradition. On the other hand, the politics of divisiveness. What a despicable choice it is.

With just days left before hitting the campaign trail, this Congress sets a remarkable record today. Since January of this year, the Republicans had the House in session for 93

days. Fewer days than any other single Session since 1948.

The Republicans control the House, the Senate and the White House. Here's the tally: No votes on energy reform. No action on the assault weapons ban. No criminal justice reform. No Homeland Security bill. And no action on minimum wage and unemployment benefits.

We can't pass a budget. Only one of 13 annual appropriations bills got done on time this year. And in Iraq, the violence continues. Yesterday, a car bomb explosion killed over 30 people—injuring over 100. We have lost over one thousand American soldiers in this war.

So which of these enormous challenges do we take on today? None of them. Instead, we're debating a constitutional amendment on marriage that is not going anywhere—it has already failed miserably in the Senate. We are just going through the motions here. The Majority is placating its base. For partisan advantage and with total disregard for our constitutional history and the core conservative value of federalism and defense to the State.

Just last month the Vice President said: ''people ought to be able to be free.'' Well, Mr. Vice President, to my surprise, we actually agree on something. People should be free to love who they want. And free to marry who they love. And live in a state where they have equal rights and opportunities, and equal access to government.

But State rights are under attack—from the self-styled conservatives no less, the same folks who are crusading to preempt State gun safety laws, get rid of consumer protection provisions, to eliminate fair lending laws. Why not abolish the 10th Amendment too?

I agree with our former colleague Bob Barr—one of the stronget supporters of States' rights ever to serve in this body. There are three reasons why a constitutional amendment is the wrong choice.

First, marriage is a state issue. Each state should be able to decide on its own how to define marriage for its citizens. Federalism means state sovereignty. We hear a lot of talk about my home state. Let me tell you something—Massachusetts is not forcing other states to take up this issue. Marriage is a matter that has always been left to the states. And each state should be allowed to address this issue in its own due course.

Second, once we start messing with the Constitution, where will it end? With this precedent, the Republicans show a willingness to change the Constitution for ideology. What's next? A Constitutional Amendment on tax cuts? Corporate welfare? The draft?

Finally, Federal constitutional amendment on marriage is unnecessary, irresponsible and irrational. It is wrong.

The House Majority is pitting the Constitution against a craven political calculus. This is election year pandering at its worst. This is a meaningless and demeaning gesture, and insult to those holding sincere beliefs on this issue, all at the expense of our constitutional heritage.

I urge my colleagues to reject this despicable posturing.

Mr. RANGEL. Mr. Speaker, I rise in opposition to H.J. Res. 106, the Marriage Protection Amendment.

This amendment should be more rightfully called the Republican Incumbency Protection Amendment. Like the bill we debated on this floor yesterday to abrogate gun laws in the District of Columbia, this amendment is nothing more than an election year wedge issue. Already defeated in the Senate last July, it is another attempt to create a campaign issue to use against Democrats. It is a shame that the People's House should be diminished in this way.

Even more so, this is an affront to our great Constitution. It reverses the constitutional tradition of protecting individual freedoms by attempting to limit those rights to millions of people. This is a cynical and dangerous violation of everything we have come to expect from that great document. This is no time to start rolling back freedom.

What a great contradiction we are witnessing today at that party, which professes the sanctity of individual rights and privacy of the individual, seeks a blanket intrusion into the lives of a group of people under the guise of protecting marriage, the most private of institutions.

While it was President Bush who initiated this bill with his call for a Constitutional amendment last February, I would hope that some members of his party would agree with the position of Vice President CHENEY that this issue should be left to the states and not enshrined in our national constitution.

Mr. STARK. Mr. Speaker, I rise in strong opposition to House Joint Resolution 106, the so-called Marriage Protection Amendment, which proposes an amendment to the U.S. Constitution to ban same-sex couples from getting married or receiving any of the rights of marriage. The right-wing political machine is churning out divisive legislation at a record pace as we get close to the election, but this is a new low. They would, for the first time ever, target a specific group of Americans in our most sacred document, and permanently ban them from having equal rights under the law. This proposed amendment not only bans marriage, but any of the ''legal incidents thereof,'' meaning that the supporter of this amendment think our founding document should keep gay and lesbian couples from filing a joint tax return, inheriting property, or visiting their partners in the hospital.

It's one thing for the Republicans to claim that banning flag burning will make us more patriotic or to propose a balanced budget amendment when they're running the highest deficits in history, but to play their political games with millions of Americans is beneath contempt. Apparently, there are a lot of things the supporters of this amendment don't understand about our government:

The Constitution has always defined the limitations of government and liberties of people, not the other way around.

Citizens of the United States are guaranteed equal treatment under the law, even if they aren't popular.

For people who choose a religion, there are two separate marriages: a civil contract and a religious ceremony. That religious ceremony has nothing to do with our laws. A church can marry whomever it wants and refuse to marry whomever it wants. For example, Churches in Massachusetts don't have to marry gay people even though the State does.

The civil contract part of marriage is enforced by a set of laws that affect property, children, health care and other responsibilities and rights. In the U.S. we are required by the Constitution to divorce these laws from any religious influence.

Passing this amendment would take us down a dangerous path of trying to make civil and religious marriage one in the same. If we're going to bring our civil marriage system in line with religious marriage, then we also need to pass an amendment banning Catholics from getting divorced.

The fact that Massachusetts is marrying same-sex couples doesn't mean that other States have to do the same. Already, 44 States have specifically banned gay marriage, and the Constitution guarantees their right to set their own policies on State issues.

Constitutional amendments have to be passed by two-thirds of both the House and Senate before being submitted to the States for ratification. This amendment has already failed in the Senate, so today's vote is all a cynical, hateful political game.

Mr. HOEKSTRA. Mr. Speaker, I rise in support of the Marriage Protection Amendment and urge my colleagues to vote in favor of this important legislation.

Marriage as the union of one man and one woman is our most basic and fundamental social institution. It is so central to the well-being of our society that, until recently, it was difficult to imagine that marriage itself would need explicit constitutional protection.

However, recent court rulings and the actions of some local officials have forced the debate upon us. In an ongoing effort to redefine marriage for all of American society, the judgment of the American people is in danger of being overruled by a handful of activist judges.

The Marriage Protection Amendment will protect marriage as the union of one man and one woman and ensure that the democratic process is followed on questions relating to this fundamental social institution.

Some will question the need for a constitutional amendment, but let's be realistic. The U.S. Constitution will be changed whether the Marriage Protection Amendment is approved or not.

Either activist judges will impose a new definition of marriage on the entire country, or the American people, through their elected representatives, will have the opportunity to determine what marriage will be.

There is a broad consensus among the American people that marriage is uniquely and essentially the union of one man and one woman. Congress needs to act today and give voice to the majority of Americans who want traditional marriage protected.

The record is clear. Whenever the American people have had the opportunity to vote directly on the issue, they have overwhelmingly voted in favor of traditional marriage.

The state of marriage and the American family is a matter of crucial importance, and I trust the judgment of the American people on this matter.

The future of marriage should be decided by the American people, not by activist courts. Vote in favor of the Marriage Protection Act, protect traditional marriage and ensure that the American people will have a say in the future of marriage.

Mr. MEEHAN. Mr. Speaker, I rise in strong opposition to the Federal Marriage Amendment.

Today in America: 8 million people are out of work—2.7 million have exhausted their unemployment benefits; 45 million people don't have access to health care; our classrooms

are underfunded by $25 billion; gasoline prices have reached $50 per barrel one-third of the intercepts from al Qaeda have not been translated into English; and, more than 1,000 Americans have been killed in a foreign quagmire with no end in sight.

It's time for bold and honest leadership, and for all Americans to unite in confronting these urgent challenges. Yet with precious few days left in the legislative session, the leadership in Congress has decided that our time is best spent trying to divide Americans for political reasons. And the device they are using to divide us is the most sacred document of all—the Constitution of the United States.

The Constitution has always united Americans behind a shared set of ideals. In our history, the Constitution has been amended only to protect and expand our rights. Since the Bill of Rights, our Nation has passed constitutional amendments to abolish slavery, to give all Americans equal protection under the laws, and to extend the right to vote to former slaves, women, and young Americans.

Never in our history has a constitutional amendment been used to take rights away. The Federal Marriage Amendment destroys that tradition simply to pander to the political base of the Republican Party 5 weeks before an election. This amendment has little to do with defending the institution of marriage.

With the strains on today's families and the incidence of divorce and broken homes, I fail to see how we strengthen the institution of marriage by forever excluding couples willing to enter into a lifelong commitment.

Our society encourages and values a commitment to long-term monogamous relationships—and we honor that commitment through the legal institution of marriage.

Same-sex couples are not asking for special rights or special favors. They are asking for the opportunity to make a commitment to one another—to share in a conservative institution and the rights and responsibilities it entails.

I understand that this is an issue where good people may disagree, and where many diverse faith traditions are brought to bear. But let's be clear—if we leave the Constitution intact, every church, every community, and every State will still be free to define marriage as they choose.

There is simply no Federal issue here and no need for a Federal solution. The Supreme Judicial Court of my State of Massachusetts has found that our State law violates our State constitution. It's a State matter, and we are handling it in Massachusetts.

I have confidence in the people of Massachusetts that we will arrive at a solution based on our laws and our values. The outcome will have no effect on the laws of other States.

My Republican colleagues have decried heavy-handed solutions from Washington and defended States' rights. Vice President CHENEY has asserted that this is an issue for the States to decide. So did Texas Governor George Bush before he came to Washington and flip-flopped.

I would plead with my colleagues who pride themselves as ardent defenders of States' rights and local control—we don't need Federal interference in Massachusetts.

We should be honest with our constituents that the Federal Marriage Amendment on the House floor today has no chance of passage. It has already been rejected by the Senate.

Today's vote is nothing more than a transparent political gimmick. It's a shameful assault on millions of hard-working, law-abiding Americans.

And it's a shameless attempt to divide all Americans at a time when unity is needed like never before.

I urge my colleagues to protect the Constitution, not degrade it for political reasons. Vote ''no'' on the Federal Marriage Amendment.

Mr. STEARNS. Mr. Speaker, I rise today in support of the rule and this amendment.

We did not seek this debate, but it was thrust upon us. A handful of judicial activists have sought to change the traditional definition of marriage through judicial decree.

Supporters of same-sex marriage are vocal, tireless, and well-funded. They are eager to attack the traditional meaning of marriage through whatever court is willing to listen. They are determined to force this revolutionary and destructive view of marriage down the American people's throats.

But there is hope for the millions of Americans who value the traditional definition of marriage. Their hope is the democratic process and this amendment. Supporters of same-sex marriage cannot win through the democratic process. Again and again, when the issue has been put forth in the court of public opinion, they have lost miserably.

Mr. Speaker, this vote today is what our democracy is all about. The response of my constituents and Americans throughout the country has been overwhelming and impressive. The vast majority of Americans have risen to the defense of traditional marriage. Today, the voice of the American people will be heard.

Ms. HARMAN. Mr. Speaker, September 13 was an important date for Congress. It marked the expiration of the decade-old Assault Weapons Ban. Police Chiefs across the country strongly encouraged the extension of this ban. President Bush even announced he would sign an extension if Congress presented him with the opportunity. Unfortunately, the Republican leadership did not deem the ban fit for a vote.

Instead, Congress squanders valuable time voting on matters that either have no bearing on the real work at hand or are designed as divisive wedge issues.

Just yesterday the House voted to repeal the District of Columbia's 28-year-old assault weapons ban and to prohibit the DC Government from enacting such laws in the future.

That was yesterday, Mr. Speaker. Today, the House, in another profile in courage, will devote valuable time to one of the most divisive of wedge issues—a vote on a constitutional amendment to ban gay marriage.

Are these the most pressing issues of the day for Congress? For the American people? Of course not. Al Qaeda will not stop at the borders of Washington, DC, in fear of our newly armed city, but tourists and other visitors might. And DC residents, Members of Congress and their families will be at greater risk.

Nor will our ports, railways, airports, and other critical infrastructure be more secure because we waste time on what is certain to be a failed Federal effort to ban gay marriage.

States have long regulated marriage and I do not believe that America has suffered from this practice. I believe State legislatures and courts are the proper arbiters of questions of community values. On this issue there is bipartisan agreement. Indeed, four of the featured speakers at the recent Republican convention oppose this amendment, including Vice President CHENEY and California Governor Schwarzenegger.

We have traditionally amended the Constitution to grant a broader range of rights to Americans. Why, in the 21st century, are we breaking from this 200-year-old tradition? In my view, the Constitution should be amended rarely, dispassionately, and only in the interest of codifying or expanding rights and liberties. This proposed amendment fails to meet that test, is divisive, and distracts from more urgent priorities.

If America is hit by terrorists again, I fear that history will look back at us with a scathing and sorrowful eye. There will be anger at our misplaced priorities, and sadness that we fell victim to the passions of those whose vision for America's future is clouded by fear and intolerance.

I oppose H.J. Res. 106 and urge my colleagues on both sides of the aisle to oppose it. We need to put this shameful vote behind us and focus on problems that all Americans agree need to be addressed, such as jobs, health care and, most of all, national security.

Ms. ROS-LEHTINEN. Mr. Speaker, although I will not be present when the House convenes on Thursday, September 30, 2004, for consideration of the H.J. Res 106, the Marriage Protection Amendment. I oppose it, just like Vice President DICK CHENEY, because it undermines the principles of federalism espoused by most Republicans and interferes with the rights of States that have been recognized since the founding of our country.

Furthermore, we should not change the Constitution for the purpose of singling out one group for discrimination. A constitutional marriage amendment is also unnecessary given that the Defense of Marriage Act already defines marriage as a union between one man and one woman.

Finally, the argument that the Marriage Protection Amendment is needed to stop activist judges and courts from forcing the American people to accept gay marriage is unfounded, a fact evidenced by the numerous marriage-related bills—both in favor of and against same-sex marriage—currently pending in more than two dozen State legislatures around the country.

That is why, if I were present, during the vote for H.J. Res. 106, I would have voted against the Marriage Protection Amendment. In light of the fact that the first Presidential Debate is being held in my congressional district on Thursday, I must remain in Florida.

Mr. HONDA. Mr. Speaker, I rise today in strong opposition to H.J. Res. 106, the so-called Marriage Protection Amendment. This measure seeks to amend the United States Constitution and define marriage as the union between a man and a woman, denying gays and lesbians the right to marriage and the legal benefits that come with it.

In the 200-year history of this great Nation, our Constitution has been amended a mere 17 times since our Founders drafted the original 10 amendments.

This amendment would be the first ever to strip a specific group of constitutional rights, directly contravening our history of expanding civil rights and liberties to the previously disenfranchised.

This amendment appeals to many Americans' deeply held belief that marriage is a religious covenant only between a man and a woman.

But marriage is also a legal contract, and the fundamental principal of equal protection dictates that all citizens have access to the benefits of such contracts.

The legal right to marry—be it man-to-woman or same-sex—is and must remain separate from the religious one.

This amendment will exclude some Americans from the full range of human experience to which they are entitled under the full protection of the law. Therefore, I believe that this measure must be defeated.

Mr. VITTER. Mr. Speaker, today I rise in support of the constitutional amendment to protect marriage as between one man and one woman. This is a very important issue for congress to address, and I am glad to have been part of the movement to bring this legislation to the House floor.

Marriage is a core institution of societies throughout the world and throughout history. It's something that has provided permanence and stability for our very social structure. Today, statistics clearly show that couples who are married are happier and better off economically, and that children who are raised in homes with a traditional, two-person married couple are better off. The societal benefits to protecting and promoting traditional marriage are, in fact, numerous.

In my home state of Louisiana, we voted just recently on a statewide constitutional amendment to define marriage in the traditional sense as between one man and one woman. The amendment passed with 78 percent, which clearly shows that an overwhelming majority of Louisianians want to see this legislation passed today.

Some opponents of this measure claim that states should decide. I strongly believe in letting states decide issues for themselves, and Congress tried this approach in 1996 with the Defense of Marriage Act. It passed and was signed into law, but today that law, and with it the clear will of the American people, is being chiseled away by opponents.

States—and more importantly, the people—will soon have their rights to decide this issue taken from them, by judges from some other part of the country. Not one state has decided by either popular referendum or legislative action to agree to anything other than marriage as between a man and a woman.

So I encourage and implore my colleagues today to support and vote for this measure, so that our states and our citizens can decide these matters for themselves.

Mr SOUDER. Mr. Speaker, this afternoon, during debate on the Marriage Protection Amendment, the Minority Leader referenced the ''Party of Lincoln'' and it support for the freedom of all people, including slaves. She made reference to Lincoln and his party in an effort to criticize the Republican Party for its stand in support of marriage as solely between one man and one woman.

Mr. Speaker, I'd like to insert an article into the RECORD that documents the Republican Party's historical support—even at its beginning—for the institution of marriage. The article by Robert P. George and William L. Saunders entitled, ''Republicans and the Relics of Barbarism: Moral Conviction made the GOP the GOP,'' discusses the moral debates that defined the Republican Party in the 1800s. The issues of polygamy and slavery were at the center of those debates.

Slaveholders clamored for their ''right'' to own another human being, thereby destroying the worth of that human being, while polygamists claimed it to be their ''religious freedom'' to engage in plural marriage, at the expense of their children and society.

When the Supreme Court usurped congressional power in the Dred Scott decision, claiming that the Constitution contained a ''right'' to own a slave, the Republican Party, led by President Lincoln, steadfastly challenged the decision. It is known that President Lincoln defeated at least one candidate who favored a pro-choice position in regard to the issue of slavery. In addition, the Republicans made Utah statehood contingent upon their inclusion of a prohibition of polygamy in their State constitution.

These ''archaic'' moral disputes are unchanged in modern debates.

Today, proponents of abortion, embryonic stem-cell research and cloning assert their ''right'' to create and destroy another human being at will, and thereby destroy the worth of that human being. In addition, the pervasive philosophy of moral and sexual liberation seeks to devalue the traditional, foundational role of marriage, at the expense of children and society.

The defense of traditional marriage and the protection of all life as equal and of intrinsic worth in the eyes of our Creator, are inherent, core beliefs of the Republican Party. We would do well to recall this truth, and to bring it to bear on our modern topics of discussion. We must defend the sanctity of life by opposing abortion and embryo-destructive research, and we must defend marriage as the permanent union between one man and one women, in order to maintain the moral and structural stability of our Nation.

Mr. Speaker, I am pleased to stand in support of marriage today in the tradition of the Party of Lincoln—the Republican Party. I urge my colleagues of both parties to do the same and vote in support of H.J. Res. 106, the Marriage Protection Amendment.

[From National Review on Line, Aug. 30, 2004]

REPUBLICANS AND THE RELICS OF BARBARISM: MORAL CONVICTION MADE THE GOP THE GOP

(By Robert P. George and William L. Saunders)

In the middle of the 19th century, a new political party emerged dedicated to two great moral struggles. The Republican party pledged to fight the ''twin relics of barbarism'': slavery and polygamy.

By then, slavery was deeply entrenched in the culture of the American south. What some had regarded as ''necessary evil'' that would gradually die out had been given a new lease on life by technological developments, and by the emergence of profitable overseas markets for cotton. An entire social and economic system was built on slavery. No longer was it reasonable to hope that the ''peculiar institution,'' and with it the moral controversy convulsing the nation, would quietly fade away. Powerful interests had a stake not only in maintaining the slave system, but in extending it into the western territories of the United States.

So the Republicans faced a daunting challenge. Pro-slavery Democrats condemned them as ''fanatics'' and ''zealots'' who sought to impose their religious scruples and moral values on others. Slaveholders demanded that they ''mind their own business'' and stay out of the ''domestic'' and ''private'' affairs of others. Defenders of a ''right'' to own slaves pointedly invited northern abolitionists to redirect their moral outrage towards the ''wage slave'' system in the north. ''If you are against slavery,'' they in effect said, ''then don't own a slave.''

By the mid-1850s, polygamy, which had originally been the largely secret practice of the Mormon elite, had come out of the closet. Polygamists claimed that attacks on ''plural marriage'' were violations of their right to religious freedom. Later, some would bring lawsuits asking judges to invalidate laws against polygamy as unconstitutional. One of these cases would make it all the way to the Supreme Court. Apologists for polygamy denied that plural marriage was harmful to children, and challenged supporters of the ban on polygamy to prove that the existence of polygamous families in American society harmed their own monogamous marriages. They insisted that they merely wanted the right to be married in their own way and left alone.

But the Republicans stood their ground, refusing to be intimidated by the invective being hurled against them. They knew that polygamy and slavery were morally wrong and socially corrosive. And they were prepared to act on their moral convictions.

For the Republicans, the idea that human beings could be reduced to the status of mere ''objects'' to be bought and sold and exploited for the benefit of others was a profound violation of the intrinsic dignity of creatures made in the image and likeness of God. Similarly, the idea that marriage could be redefined to accommodate a man's desire for multiple sexual partners was, as they saw it, deeply contrary to the meaning of marriage as joining a man and a woman in a permanent and exclusive bond.

In the great moral struggles of the 19th century, the Republicans sought advantage in every morally legitimate and available way. When appropriate, they would accept strategic compromises on the road to victory; but they would not compromise away their principles.

When in the Dred Scott decision the Supreme Court of the United States announced its discovery of what amounted to a constitutional right of slaveholding, Lincoln and other leading Republicans refused to treat the case as a binding precedent. They would not bow to judicial usurpation. When Utah sought admission as a state, the Republican-controlled Congress made statehood conditional upon incorporation of a prohibition of polygamy into the state constitution.

As Republicans gather in New York this week, they would do well to remember their moral heritage. The twin relics of barbarism have returned in distinctively modern garb. Abortion and embryo-destructive research are premised on the proposition that some human beings—those in the embryonic and fetal stages of development—may legitimately be reduced to objects that can be created and destroyed for the benefit of others. At the same time, the ideology of sexual liberationism threatens to undercut the traditional understanding of marriage as the permanent and exclusive union of one and one woman.

A familiar mantra of ''pro-choice'' politicians is that abortion should be ''safe, legal, and rare.'' Now, however, they seek to validate and fund a massive industry that would create human beings for the precise purpose of destroying them during the embryonic stage of development in biomedical research. What happened with slavery is now happening with embryo-killing: The people who use to define it as a ''necessary evil'' to be resisted or lessened by means other than legal prohibition now promote it as a social good—something that law and government should not only tolerate but embrace and even promote.

At the same time, the sexual-liberationist movement seeks to undermine traditional

understandings of the meaning and significance of human sexuality. The attempt to abolish the legal concept of marriage as the one-flesh union of a man and a woman is part of a larger effort to ''liberate'' people from what the cultural-political Left regards as outmoded and repressive ideas about the centrality of procreation and the moral requirement of fidelity in human sexual relationships. Even some leading ''conservative'' advocates of ''same-sex marriage'' have announced their moral acceptance of promiscuity; one has gone so far as to proclaim the ''spiritual value'' of ''anonymous sex.'' Increasingly, critics of traditional morality are willing explicitly to invoke the authority of ancient pagan civilizations in which practices (including abortion, infanticide, and homosexual conduct) condemned by the Judeo-Christian ethic sometimes flourished.

Critics of the Republican stand in defense of marriage and the sanctity of human life—including some within the party—echo the arguments of 19th-century apologists for the relics of barbarism. They accuse pro-life and pro-family Republicans of being ''religious fanatics'' who disrespect people's liberty and seek to ''impose their values'' on others. ''If you are against abortion,'' they say, ''then don't have an abortion.'' They maintain—often disingenuously—that legal recognition of the ''marriages'' of same-sex partners will not harm or weaken traditional marriages.

These arguments fare no better as defenses of human-embryo killing and the redefinition of marriage than they did of slavery and polygamy. Justice requires that all human beings irrespective of race or color, but also irrespective of age, or size, or stage of development, be afforded the protection of the laws. The common good requires that the laws reflect and promote a sound understanding of marriage as uniting one man and one woman in a bond founded upon the bodily communion made possible by their reproductive complementarity.

An influential minority in the Republican Party proposes abandoning, or at least softpedaling, the Party's commitments to the sanctity of human life and the dignity of marriage and the family. They say that social issues are ''too divisive.'' They suppose that the easy road to Republican electoral success is as the party of low taxes and low morals. They counsel capitulation to judges who usurp the constitutional authority of the American people and their elected representatives.

Let Republicans be mindful of their heritage. It was moral conviction—and the courage to act on moral conviction—that gave birth to the Republican party and made it grand. Now it is old, but need not be any less grand. By summoning the moral courage that enabled their Party to stand proudly against the twin relics of barbarism in the 19th century, Republicans can bring honor upon themselves in the great moral struggles of our own day.

Mrs. BIGGERT. Mr. Speaker, I rise in opposition to H.J. Res. 106, the Marriage Protection Amendment. Passage of this resolution will not protect marriage, and I am concerned it will create the opposite effect of what its proponents seek to accomplish.

Let me first state that I believe that marriage is a sacred union between one man and one woman. I strongly support the federal Defense of Marriage Act (DOMA) passed by Congress and signed into law in 1996.

Second, marriage is an issue that our Founding Fathers wisely left to the states. Article X of the Constitution states, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

No Congress ever has seen fit to amend the Constitution to address any issue related to marriage. No Constitutional Amendment was needed to ban polygamy or bigamy, nor was a Constitutional Amendment needed to set a uniform age of majority to ban child marriages.

So why do proponents argue that we must take this unprecedented step now to ban same-sex marriages?

They claim that without the Amendment, states will be forced to recognize same-sex marriage performed in other states. Yet the Defense of Marriage Act not only prohibits federal recognition of same-sex marriages, it allows individual states to refuse to recognize such unions performed in other states. And in the eight years that have passed since its enactment, DOMA never has been invalidated in any court in the country. The authors of DOMA took the greatest pains to write a law that is constitutional and will withstand judicial challenges.

Proponents also claim that amending the Constitution is the only way to prevent so-called "activist judges" from legislating matters of same-sex marriage. Yet amending the Constitution to address marriage could invite federal judicial review not only of marriage, but of divorce, child custody, inheritance, adoption, and other issues of family law. Not only would this violate the principles of federalism, it would create very bad public policy.

Mr. Speaker, no legislature in the country has established same-sex marriage in statute. In fact, 39 states, including Illinois, have adopted laws limiting marriage to one man and one woman.

I urge my colleagues to have faith in our system of government, keep marriage out of the Constitution, and allow the states to continue to exercise what is best left to them.

The SPEAKER pro tempore (Mr. SIMPSON). All time for debate has expired.

Pursuant to House Resolution 801, the joint resolution is considered read for amendment, and the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken.

Mr. FRANK of Massachusetts. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clauses 8 and 9 of rule XX, this 15-minute vote on House Joint Resolution 106 will be followed by 5-minute votes on motions to suspend the rules on House Concurrent Resolution 501 and House Resolution 792.

The vote was taken by electronic device, and there were—yeas 227, nays 186, not voting 20, as follows:

[Roll No. 484]

YEAS—227

Aderholt	Gillmor	Pearce
Akin	Gingrey	Pence
Alexander	Goode	Peterson (MN)
Bachus	Goodlatte	Peterson (PA)
Baker	Gordon	Petri
Ballenger	Granger	Pickering
Barrett (SC)	Graves	Pitts
Bartlett (MD)	Green (WI)	Platts
Barton (TX)	Gutknecht	Pombo
Beauprez	Hall	Porter
Berry	Harris	Portman
Bilirakis	Hart	Putnam
Bishop (GA)	Hastert	Quinn
Bishop (UT)	Hastings (WA)	Radanovich
Blackburn	Hayes	Rahall
Blunt	Hayworth	Ramstad
Boehner	Hefley	Regula
Bonilla	Hensarling	Rehberg
Bonner	Herger	Renzi
Boozman	Herseth	Reynolds
Boucher	Hoekstra	Rogers (AL)
Boyd	Holden	Rogers (KY)
Bradley (NH)	Hulshof	Rogers (MI)
Brady (TX)	Hyde	Rohrabacher
Brown (SC)	Isakson	Ross
Brown-Waite, Ginny	Issa	Royce
	Istook	Ryan (WI)
Burgess	Jefferson	Ryun (KS)
Burns	Jenkins	Sandlin
Burr	John	Saxton
Burton (IN)	Johnson (IL)	Schrock
Buyer	Johnson, Sam	Scott (GA)
Calvert	Jones (NC)	Sensenbrenner
Camp	Keller	Sessions
Cantor	Kelly	Shadegg
Capito	Kennedy (MN)	Shaw
Carson (OK)	King (IA)	Sherwood
Carter	King (NY)	Shimkus
Chabot	Kingston	Shuster
Chandler	Kline	Simpson
Chocola	LaHood	Skelton
Coble	Lampson	Smith (MI)
Cole	Latham	Smith (NJ)
Collins	LaTourette	Smith (TX)
Cooper	Lewis (CA)	Souder
Costello	Lewis (KY)	Spratt
Cramer	Linder	Stearns
Crane	LoBiondo	Stenholm
Crenshaw	Lucas (KY)	Sullivan
Cubin	Lucas (OK)	Tancredo
Culberson	Manzullo	Tanner
Cunningham	Marshall	Taylor (MS)
Davis (AL)	Matheson	Taylor (NC)
Davis (TN)	McCotter	Terry
Davis, Jo Ann	McCrery	Thomas
Davis, Tom	McHugh	Thompson (MS)
Deal (GA)	McIntyre	Thornberry
DeLay	McKeon	Tiahrt
DeMint	Mica	Tiberi
Doolittle	Miller (FL)	Toomey
Duncan	Miller (MI)	Turner (OH)
Edwards	Miller, Gary	Upton
Ehlers	Moran (KS)	Vitter
Emerson	Murphy	Walden (OR)
English	Musgrave	Walsh
Etheridge	Myrick	Wamp
Everett	Neugebauer	Weldon (FL)
Feeney	Ney	Weldon (PA)
Ferguson	Northup	Weller
Flake	Norwood	Whitfield
Forbes	Nunes	Wicker
Ford	Nussle	Wilson (NM)
Fossella	Ortiz	Wilson (SC)
Franks (AZ)	Osborne	Wolf
Gallegly	Otter	Young (AK)
Garrett (NJ)	Oxley	Young (FL)

NAYS—186

Abercrombie	Brown (OH)	DeGette
Ackerman	Butterfield	Delahunt
Allen	Capps	DeLauro
Andrews	Capuano	Deutsch
Baca	Cardin	Dicks
Baird	Cardoza	Dingell
Baldwin	Carson (IN)	Doggett
Bass	Case	Dooley (CA)
Becerra	Castle	Doyle
Bell	Clay	Dreier
Berkley	Clyburn	Emanuel
Berman	Conyers	Engel
Biggert	Cox	Eshoo
Bishop (NY)	Crowley	Evans
Blumenauer	Cummings	Farr
Bono	Davis (CA)	Fattah
Boswell	Davis (FL)	Filner
Brady (PA)	DeFazio	Foley

Frank (MA)
Frelinghuysen
Frost
Gephardt
Gerlach
Gibbons
Gilchrest
Gonzalez
Green (TX)
Greenwood
Grijalva
Gutierrez
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McInnis
McNulty
Meehan
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Obey
Olver
Ose
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pomeroy
Price (NC)
Pryce (OH)
Rodriguez
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Snyder
Solis
Stark
Strickland
Stupak
Sweeney
Tauscher
Thompson (CA)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—20

Boehlert
Brown, Corrine
Cannon
Davis (IL)
Diaz-Balart, L.
Diaz-Balart, M.
Dunn
Harman
Hastings (FL)
Hunter
Meek (FL)
Meeks (NY)
Menendez
Murtha
Nethercutt
Oberstar
Rangel
Reyes
Ros-Lehtinen
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1725

Mr. NADLER changed his vote from ''yea'' to ''nay.''

So (two-thirds not having voted in favor thereof) the joint resolution was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HONORING LIFE AND WORK OF DUKE ELLINGTON

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 501.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. BURNS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 501 on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 391, nays 0, not voting 42, as follows:

[Roll No. 485]

YEAS—391

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Grijalva
Gutierrez
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—42

Ackerman
Bachus
Boehlert
Boswell
Brady (TX)
Brown, Corrine
Cannon
Davis (IL)
Davis, Tom
Deal (GA)
Diaz-Balart, L.
Diaz-Balart, M.
Dunn
Emanuel
Greenwood
Gutknecht
Harman
Hastings (FL)
Hayes
Hunter
Istook
Johnson (CT)
Kilpatrick
King (NY)
Lipinski
Lucas (KY)
McCollum
Meek (FL)
Meeks (NY)
Menendez
Miller, Gary
Murtha
Myrick
Nethercutt
Oberstar
Olver
Rangel
Reyes
Ros-Lehtinen
Shimkus
Stark
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1732

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HONORING UNITED NEGRO COLLEGE FUND ON 60TH ANNIVERSARY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 792.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. BURNS) that the House suspend the rules and agree to the resolution, H. Res. 792, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 386, nays 0, not voting 46, as follows:

[Roll No. 486]

YEAS—386

Abercrombie	Dicks	Kennedy (RI)
Aderholt	Dingell	Kildee
Akin	Doggett	Kind
Alexander	Dooley (CA)	King (IA)
Allen	Doolittle	Kingston
Andrews	Doyle	Kirk
Baca	Dreier	Kleczka
Bachus	Duncan	Kline
Baird	Edwards	Knollenberg
Baker	Ehlers	Kolbe
Baldwin	Emerson	Kucinich
Barrett (SC)	Engel	LaHood
Bartlett (MD)	English	Lampson
Barton (TX)	Eshoo	Langevin
Bass	Etheridge	Lantos
Beauprez	Evans	Larsen (WA)
Becerra	Everett	Larson (CT)
Bell	Farr	Latham
Berkley	Fattah	LaTourette
Berman	Feeney	Leach
Berry	Ferguson	Lee
Biggert	Filner	Levin
Bilirakis	Flake	Lewis (CA)
Bishop (GA)	Forbes	Lewis (GA)
Bishop (NY)	Ford	Lewis (KY)
Bishop (UT)	Fossella	Linder
Blackburn	Frank (MA)	LoBiondo
Blumenauer	Franks (AZ)	Lofgren
Blunt	Frelinghuysen	Lowey
Boehner	Frost	Lucas (OK)
Bonilla	Gallegly	Lynch
Bonner	Garrett (NJ)	Majette
Bono	Gephardt	Maloney
Boozman	Gerlach	Manzullo
Boucher	Gibbons	Markey
Boyd	Gilchrest	Marshall
Bradley (NH)	Gillmor	Matheson
Brady (PA)	Gingrey	Matsui
Brown (OH)	Gonzalez	McCarthy (MO)
Brown (SC)	Goode	McCarthy (NY)
Brown-Waite, Ginny	Goodlatte	McCotter
	Gordon	McCrery
Burgess	Granger	McDermott
Burns	Graves	McGovern
Burr	Green (TX)	McHugh
Burton (IN)	Green (WI)	McInnis
Butterfield	Grijalva	McIntyre
Buyer	Gutierrez	McKeon
Calvert	Hall	McNulty
Camp	Harris	Meehan
Cantor	Hart	Mica
Capito	Hastings (WA)	Michaud
Capuano	Hayworth	Millender-McDonald
Cardin	Hensarling	
Cardoza	Herger	Miller (FL)
Carson (IN)	Herseth	Miller (MI)
Carson (OK)	Hill	Miller (NC)
Carter	Hinchey	Miller, George
Case	Hinojosa	Mollohan
Castle	Hobson	Moore
Chabot	Hoeffel	Moran (KS)
Chandler	Hoekstra	Moran (VA)
Chocola	Holden	Murphy
Clay	Holt	Musgrave
Clyburn	Honda	Myrick
Coble	Hooley (OR)	Nadler
Cole	Hostettler	Napolitano
Collins	Houghton	Neal (MA)
Conyers	Hoyer	Neugebauer
Cooper	Hulshof	Ney
Costello	Hyde	Northup
Cox	Inslee	Norwood
Cramer	Isakson	Nunes
Crane	Israel	Nussle
Crenshaw	Issa	Obey
Crowley	Istook	Ortiz
Cubin	Jackson (IL)	Osborne
Culberson	Jackson-Lee (TX)	Ose
Cummings		Otter
Cunningham	Jefferson	Owens
Davis (AL)	Jenkins	Oxley
Davis (CA)	John	Pallone
Davis (FL)	Johnson (IL)	Pascrell
Davis (TN)	Johnson, E. B.	Pastor
Davis, Jo Ann	Johnson, Sam	Paul
DeFazio	Jones (NC)	Payne
DeGette	Jones (OH)	Pearce
Delahunt	Kanjorski	Pelosi
DeLauro	Kaptur	Pence
DeLay	Keller	Peterson (MN)
DeMint	Kelly	Petri
Deutsch	Kennedy (MN)	Pickering
Pitts	Schiff	Thompson (MS)
Platts	Schrock	Thornberry
Pombo	Scott (GA)	Tiahrt
Pomeroy	Scott (VA)	Tiberi
Porter	Sensenbrenner	Tierney
Portman	Serrano	Toomey
Price (NC)	Sessions	Towns
Pryce (OH)	Shadegg	Turner (OH)
Putnam	Shaw	Turner (TX)
Quinn	Shays	Udall (CO)
Radanovich	Sherman	Udall (NM)
Rahall	Sherwood	Upton
Ramstad	Shuster	Van Hollen
Regula	Simmons	Velázquez
Rehberg	Simpson	Visclosky
Renzi	Skelton	Vitter
Reynolds	Slaughter	Walden (OR)
Rodriguez	Smith (MI)	Walsh
Rogers (AL)	Smith (NJ)	Wamp
Rogers (KY)	Smith (TX)	Waters
Rohrabacher	Smith (WA)	Watson
Ross	Snyder	Watt
Rothman	Solis	Waxman
Roybal-Allard	Souder	Weiner
Royce	Spratt	Weldon (FL)
Ruppersberger	Stearns	Weldon (PA)
Rush	Stenholm	Weller
Ryan (OH)	Strickland	Wexler
Ryan (WI)	Stupak	Whitfield
Ryun (KS)	Sweeney	Wicker
Sabo	Tancredo	Wilson (NM)
Sánchez, Linda T.	Tanner	Wilson (SC)
	Tauscher	Wolf
Sanchez, Loretta	Taylor (MS)	Woolsey
Sanders	Taylor (NC)	Wu
Sandlin	Terry	Wynn
Saxton	Thomas	Young (AK)
Schakowsky	Thompson (CA)	Young (FL)

NOT VOTING—46

Ackerman	Greenwood	Miller, Gary
Ballenger	Gutknecht	Murtha
Boehlert	Harman	Nethercutt
Boswell	Hastings (FL)	Oberstar
Brady (TX)	Hayes	Olver
Brown, Corrine	Hefley	Peterson (PA)
Cannon	Hunter	Rangel
Capps	Johnson (CT)	Reyes
Davis (IL)	Kilpatrick	Rogers (MI)
Davis, Tom	King (NY)	Ros-Lehtinen
Deal (GA)	Lipinski	Shimkus
Diaz-Balart, L.	Lucas (KY)	Stark
Diaz-Balart, M.	McCollum	Sullivan
Dunn	Meek (FL)	Tauzin
Emanuel	Meeks (NY)	
Foley	Menendez	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1740

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I would be glad to yield to my friend, the gentleman from Texas (Mr. DELAY), the majority leader, for the purpose of informing us of the schedule for next week.

Mr. DELAY. Mr. Speaker, I thank the gentleman from Maryland for yielding to me.

Mr. Speaker, next week the House will convene on Monday at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We will consider several measures under suspension of the rules. A final list of those bills will be sent to Members' offices by the end of this week. We may also consider one or more motions to go to conference. Any votes called on those measures will be rolled until 6:30 p.m.

On Tuesday and the balance of the week, it is likely that we will consider additional legislation under suspension of the rules. We also expect to consider three bills under a rule: S. 878, the Bankruptcy Judgeship Act; H.R. 5107, the Justice For All Act; and H.R. 10, the 9/11 Commission Implementation Act.

In addition, there are a number of potential conference reports that we are working through, including several appropriations bills, the American Jobs Creation Act, and the Department of Defense Authorization bill. Members should be aware that these conference reports may be brought to the floor at any time next week.

Finally, I would like to note, Mr. Speaker, that we are expecting to consider a second supplemental request for disaster relief sometime next week. We may have additional requests resulting from Hurricane Jeanne, so we are working through these requests and trying to figure out how best to address these needs.

Obviously, we are expecting a very busy week. Members should expect to work some late nights and possibly into Friday evening or Saturday as we resolve these important pieces of legislation.

I thank the gentleman for yielding, and I will be happy to answer any questions he may have.

Mr. HOYER. Mr. Speaker, I thank the majority leader for the information. I want to assure the leader, as he says we ought to be, that the Members on this side are, in fact, prepared to spend the time necessary to address the important issues, as the leader requests. And I want to assure the leader of our cooperation in being ready to do our work.

Mr. Leader, initially, may I ask, the motions to instruct, can the gentleman give us a time when those might occur, and will they occur relatively close to the votes, the suspension votes at the end of the day? I yield to my friend.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding. As the gentleman knows, we have three appropriations bills that are out there that are eligible for motions to instruct. I do not know of any others. They are available when those Members want to bring a motion to instruct, and we are trying to fit them in as best we can during the week.

Mr. HOYER. I thank the leader for that information.

Mr. Leader, as all of us know, today is the end of the current fiscal year, and 12 of the 13 2005 appropriation bills have not been passed. We do not have a budget. The new fiscal year starts tomorrow. The highway program is still pending. We extended that for 8 months. The FSC bill, which is subjecting businesses in the country doing

business in Europe to an additional 11 percent tariff is still not passed. The energy bill, obviously we have not gotten to at this point in time. We have not enacted legislation on the intelligence apparatus, although I understand the 9/11 Commission Implementation Act that the gentleman speaks to.

Mr. Leader, on that, might I ask this question: there is a bill in the Senate and there is a bill that has been introduced in the House that mirrors essentially the 9/11 Commission report. Is that the bill to which the gentleman is referring, or the bill that is in the process apparently of being marked up and, apparently, at some point in time, will be put together to come to the floor? Which of those three alternatives does the gentleman refer to? I yield to my friend.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding. The gentleman touched on many issues; I will take the 9/11 Commission Implementation Act first.

I do not agree with the gentleman's characterization of the Senate bill, because what I have seen in the Senate and what they are debating nowhere mirrors the 9/11 Commission Report or all of its recommendations.

□ 1745

The bill being marked up by the House all of this week does mirror every recommendation by the 9/11 Commission in one way or another, and that is why it has taken us longer to get it through all our 12 committees. It is going to take us a little longer to get it to the floor. I expect that, looking at all the work that needs to be done in order to bring that bill to the floor, we would have to pass that bill sometime next week, probably at the end of the week. I believe there is a good chance that the Senate could pass their version even this week.

Assuming that both bodies pass next week, I would expect that we could appoint conferees next week and work towards completing a conference report as soon as possible. In planning their schedules, Members should know that a conference report could be completed later in October, and that if it was completed, the House would certainly come back and vote on it.

Mr. HOYER. Reclaiming my time, on that last point, I have heard a rumor or discussion about the possibility of coming back on November 1, the day before the election to vote on the conference report. Can the majority leader tell me whether there is any merit to that speculation? I yield to my friend.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman informing me of rumors, but that is a rumor that I have not yet heard nor has anyone discussed such a thing. I would hope that the conference committee could go to work immediately and complete this as soon as possible. It is important.

The conference report, as it comes out, I am sure will have many reforms that need to be implemented to keep the American people and American families safer, and we want to get it out as quickly as possible.

Mr. HOYER. Reclaiming my time, I appreciate the leader's assertion of wanting to keep America safe, and I think that he speaks for 435 of us in that regard. He certainly speaks for me, but I think he speaks for all of us.

In that vein, as I indicated to the gentleman from California (Mr. DREIER) two weeks ago, as I indicated to the gentleman last week, while we apparently have a difference of opinion on the Senate bill, which is introduced here in a bipartisan fashion on this side of the Capitol, I believe that we have overwhelming support on this side for that proposition. In light of the fact that we are interested, as the gentleman says, in protecting America and implementing this legislation in as timely a fashion as possible, might it not be in pursuit of that objective advisable to allow that bill to be on the floor either in lieu of the bill that, frankly, has been marked up by my colleague's party exclusively?

I have talked to all of our ranking members on the committees that the gentleman talked to. All of them believe they have been informed of what was going on, but they were not participants in the drafting of the legislation. As a result, there may be greater contention than would be hopefully called for if, in fact, we want to pass the legislation as quickly as possible.

In addition, it is my understanding that there are substantial differences between the Senate bill and the House bill, which may require a very long conference, rather than short conference, if we do not pass something that is relatively compatible in the first instance.

I would be glad to yield to my friend.

Mr. DELAY. Mr. Speaker, the gentleman brings up many issues.

First and foremost, I do not know if the gentleman has been advised, but I would refer the gentleman to the votes of the committees that have been marking up this bill. If I do recall exactly what the vote was, it was a very bipartisan effort. I think and I hope that the bill that is coming to the House floor is very strongly supported by both sides.

In the Permanent Select Committee on Intelligence, for instance, I think there was a 17-to-2 vote in passing that bill out. Now, 17 to two tells me that most of the Democrats and most of the Republicans voted for that bill. So I am very encouraged by the markups that we are having and the kind of support that the Democrats and Republicans are showing for the product that is being put together.

Having said that, the gentleman may support the bill that came out of the Senate committee. I looked at it. I think it is woefully lacking in sufficient reforms, particularly in immigration policy, border security, law enforcement. It basically is a bill that creates a national intelligence director and a counterterrorism center. There is more to protecting the American people than creating a new bureaucracy and keeping our borders safe, giving our law enforcement officials more tools to go after terrorists. There are many things that we need to be doing.

Having said that, the bill the gentleman refers to may not be the bill that comes out of the Senate because I have been informed that there are over 100 amendments, 100 amendments, filed for the debate in the other body. So who knows what that bill is going to look like when it comes out of the other body, and I think it would be highly irresponsible for this House to pick up something that came out of the Senate committee and bring it down here on the floor, unseen by most Members and not worked on by our committees, and just vote on it, up and down. I do not think that keeps the American people safer.

Mr. HOYER. Mr. Speaker, I thank the gentleman. I will simply observe that although the votes may have been bipartisan, and I will tell my colleague very honestly, there is no confusion over here on the timing of this bill. The gentleman expects Democrats to either vote for it or to be attacked about being against protecting the American people if they vote against it. We went through the creation of a bureaucracy, the Homeland Security Department. I voted against it. I think it was not what was needed. What was needed was the coordination of information. I said that at the time.

The commission in a bipartisan way has said that is what is needed. We still know that there is not the kind of coordination of information gathering, analysis and recommendation for implementation of action based upon the information gathered that we would like to have. The 9/11 Commission found that.

Furthermore, the 9/11 Commission, as I understand it, has indicated support of the Senate bill as it came out of committee.

Now, there are obviously a lot of other things that need to be dealt with, including items that are either in the PATRIOT Act or could have been in the PATRIOT Act. Those items in some respects are very controversial. One of the problems, very frankly, that we have found in getting legislation passed, as the gentleman knows, in a relatively short period of time has been the addition of very controversial items, not necessarily related directly to what the 9/11 Commission had recommended, and because of the controversial nature of those additions, as it has occurred in other legislation, will slow that legislation down.

Mr. DELAY. Mr. Speaker, if the gentleman would yield, the gentleman obviously did not read the 9/11 Commission recommendations because many of those recommendations were very general in nature, very unspecific. Yet, we took their recommendations in those areas and did actual detailed pieces of

legislation, much beyond what the 9/11 Commission even envisioned because they did not have the expertise to recommend specific items.

It is unfortunate the gentleman questions my motive, but I must tell the gentleman that ever since the 9/11 Commission has come out we have reached out to any Democrat who is willing to work on this issue. Those Democrats that have been willing to work on those issues, we have been working with them, and I have not been privy to every discussion or every meeting on this issue, particularly within the committees, but I think if my colleague will go back and check with his ranking members, those who wanted to work on the legislation were more than just informed. They have a very big part to play, particularly in the Committee on Armed Services, the Committee on International Relations. So we worked with the willing Democrats that wanted to work on this issue rather than to have a political issue, and they had a very big part to play in it. I think that is reflected in the kinds of votes we are getting coming out of committee.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for his response, and let me assure the gentleman I did not think I questioned the gentleman's motives. I may question the results of actions we take, but I do not intend to question the majority leader's motives in any event. I do not think that would be appropriate nor do I do it, and if the gentleman took it to be that, I apologize because I do not question. I may have different motives of my own and I may not agree with him, but I do not question his motives. I may question his judgment. I may question that which is for or against but not his motives.

I am not going to prolong the discussion on this because we are going to have discussion about this next week, but I would like to make one example of something that we feel strongly about that the 9/11 Commission felt strongly about, which the bill at least that we have seen does not deal with.

One of the concerns which the Commission had was that we are not moving quickly enough or effectively enough to identify and to secure materials which could be used for the production of or creation of nuclear weapons, even dirty bombs. The Commission spoke to that directly. The Senate bill speaks to that, and the bill introduced in the House speaks to that, at least at the point yesterday, and I am not sure whether markups have occurred in committees. I guess, some committees, the answer to that is yes; some no, but that was not addressed. So, at least in that one instance, and I have got about 15 others but I am not going to prolong and go through those, that was not addressed in the gentleman's bill, while some other things that the commission did not deal with are addressed, and I understand my colleague's observation.

Mr. DELAY. Mr. Speaker, if the gentleman would yield, first of all, I do not think this is a proper forum to debate the bill, and I am not prepared to debate the bill.

I have not personally been able to go over the volumes of work that has been done by 12 committees. So the provision that the gentleman may be speaking to, all I can tell him is that I remember in the list of things that were presented to me a day or so ago, it did address that very issue. I can go back and look at it, but the gentleman will have plenty of opportunity during the debate of this bill to debate the bill up or down, to amend it, to substitute for it, and the gentleman knows he can go before the Committee on Rules and ask for that kind of action.

Mr. HOYER. Mr. Speaker, I appreciate the leader's advice that I have the opportunity to go before the Committee on Rules. I always enjoy the opportunity to go and testify before the gentleman from California (Mr. DREIER) and his committee.

Let me move on to some other legislation. I mentioned a number of pieces that we have not done, Defense Department authorization, I mentioned, and the Higher Education Act. My question, does the gentleman anticipate that we will leave next Friday or Saturday having accomplished some or all of those pieces of legislation?

Mr. DELAY. Mr. Speaker, if the gentleman would yield and repeat all the legislation he is talking about?

Mr. HOYER. Sure. We have 12 of the 13 appropriation bills we have not passed. We have not passed a budget. Highway program has not passed. The FSC bill has not passed, resulting in 11 percent additional tariffs to people. The energy bill has not passed. The Intelligence bill, we have been talking about, Defense authorization and the Higher Education Act. None of those have been done to this point.

Mr. DELAY. Mr. Speaker, if the gentleman would yield.

Mr. HOYER. I would be glad to yield to my friend.

Mr. DELAY. I think I addressed in my opening remarks the Defense authorization conference. We are hoping to get that out.

The highway bill I think has been debated or talked about a lot on this floor in the last couple of days. The House is ready to go. The House is ready to negotiate with the Senate, and the House has cleaned out a lot of the brush, but it seems that the Senate is going to have a very hard time getting their members in the conference committee to support a highway bill. So that is why we did the extension today on 8 months to give them more time to work.

The FSC/jobs bill, the conferees met on that bill last night. It was a very good conference. Democrats were certainly included, and we have scheduled another meeting for next Tuesday. I believe there is a good chance that a conference report could be ready for the House to vote on later at the end of next week.

□ 1800

The appropriations process, the gentleman being on the Committee on Appropriations, knows very well, as he stated, that we passed 12 of the 13 bills. The thirteenth bill has problems. We know there is going to be an omnibus bill, and we will solve those problems in an omnibus bill, but the problem is in the other body. They are passing as many bills as they can get done, and we will go to conference on every one of those bills to try to get them done before the end of next week. That would include Homeland Security appropriation, MilCon, Foreign Ops, the Legislative Branch, and D.C., which are the only ones I know of that the Senate has passed so far.

The rest, as the gentleman knows, we did a continuing resolution until November 20. We have instructed our committees, and the Senate leadership has instructed their committees to work on those as best they can so that, when we get back in November, the Members can vote on those bills up or down.

The higher education bill, right now, I am not advised where it is, so I cannot answer the gentleman on that one.

Mr. HOYER. Reclaiming my time once again, Mr. Speaker, I appreciate, A, the majority leader's taking the time to go through those and letting us know where he thinks they may be and whether we will address them next week.

Additionally, when we leave next Friday or Saturday, can the leader tell us, for scheduling purposes, and I know we are going to have the leader's organizational meeting, I think we will schedule our organizational meeting the same week, but is it your view that we will have a lame duck session on November 15 or November 16 and days thereafter?

I yield to my colleague.

Mr. DELAY. Mr. Speaker, that is still hard to say. I can answer that question better at the end of next week. I am still hoping, against all odds, that the appropriations process could be done. Willing people coming together can get a lot of things done in a very short period of time around here. It is just a matter of finding the willing people to get it done, and we are still working on it. It could happen. Lightning could strike. And if it does, then we would not have to come back in a lame duck.

Obviously, the appropriations process is the most important. And if we cannot get all the appropriations done, then I would anticipate having a lame duck sometime in that week that both parties are organizing.

Mr. HOYER. Reclaiming my time, Mr. Speaker, I think the leader is right. I think for that to happen lightning is going to have to strike.

Lastly, Mr. Leader, we talked about the intelligence bill being on the floor next week. Can the minority be assured that we will have a substitute for that bill? The gentleman indicated there are 100 amendments pending on the Senate

floor. This is a very important piece of legislation, obviously. The bipartisan commission has spoken to this.

I have read the report, by the way. I think it is an excellent report. We are very hopeful that we not only will have the opportunity to amend any and all sections of the bill, but that we will have the opportunity to offer a substitute, not just simply a motion to recommit, but a substitute at the appropriate time. I would hope that the leader, given the importance of this legislation, would assure the minority that we would have that opportunity.

Mr. Speaker, I continue to yield to my friend.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding. As the gentleman knows, the chairman of the Committee on Rules is sitting here. I think he is going to make an announcement about amendments and substitutes.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding, and I appreciate his request. The announcement I am going to be making in just a few minutes, as soon as the colloquy between the distinguished minority whip and the distinguished majority leader is completed, is one which will call for the establishment of new Federal judgeships.

At this juncture, probably on Monday, we will likely be making an announcement as we anticipate the work product that will be emerging on the 9/11 report.

Mr. HOYER. Reclaiming my time, Mr. Speaker, I thank the gentleman for those comments.

Mr. Speaker, I would say to the majority leader and to the chairman of the Committee on Rules, this legislation was introduced less than a week ago. It has been marked up this week. It will be on the floor next week. That is a very rapid progression.

I think, Mr. Leader, respectfully, that that calls for even greater opportunity for Members to work their will on the floor, with the ability to offer such amendments as they deem to be appropriate and would include the opportunity to offer an entire package in the form of a substitute. I would hope that that would happen.

ADJOURNMENT FROM THURSDAY, SEPTEMBER 30, 2004, TO MONDAY, OCTOBER 4, 2004

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Monday next for morning hour debates.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING AMENDMENTS TO S. 878, ADDITIONAL PERMANENT JUDGESHIP IN THE DISTRICT OF IDAHO

Mr. DREIER. Mr. Speaker, the Committee on Rules may meet the week of October 4, as I was just saying, to grant a rule which could limit the amendment process for floor consideration of S. 878, a bill to create additional Federal court judgeships. The Committee on the Judiciary ordered the bill reported on September 9, 2004, and filed its report with the House on September 29, 2004.

Any Member wishing to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation of the amendment to the Committee on Rules in room H–312 of the Capitol by 2 p.m. on Monday, October 4. Members should draft their amendments to the text of the bill as reported by the Committee on the Judiciary, which is available for their review on the Web sites of both the Committee on the Judiciary and the Committee on Rules.

Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format. Members are also advised to check with the Office of the Parliamentarian to be sure their amendments comply with the rules of the House.

CONGRATULATIONS TO LINDA THEIL ON HER RETIREMENT

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, I rise today to honor Linda Theil on her retirement from 33 years of public service as a staff member in the House of Representatives.

When I was just starting my first term in Congress in 1993, Linda came to my staff. Her expertise and vast knowledge of education policy have been invaluable to me as a Member of the House Committee on Education and the Workforce. She has worked on legislation, including the Child Nutrition Act, the School Breakfast Pilot Program, Head Start, the Balancing Act, and Welfare Reform, to name only a few.

Mr. Speaker, Linda Theil is the role model for what every single staff member should be, dedicated, hardworking, caring and devoted. Her presence will be missed but not forgotten.

Thank you, congratulations, and best wishes, Linda.

GLOBAL WARMING

(Mr. INSLEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, there are two very significant things which happened today regarding global warming. The first is that the U.S. Department of Commerce's Geophysical Fluid Dynamics Laboratory in Princeton, New Jersey, announced that they had completed the largest computer simulation of what will happen in global warming and how it will affect hurricanes. They concluded that the seas being warmed by rising atmospheric concentration of gases will result in a typical hurricane intensity increasing about an extra half step on the five-step scale.

This is not good news, Mr. Speaker, particularly since our Nation, under this administration, is not doing anything significant to deal with global warming.

In contrast, interestingly, today, Russia and their parliament indicated that it is likely they will join the Kyoto Protocol to deal with global warming. This is a difficulty for our businesses if this becomes a worldwide regime and we are not part of the international effort.

We hope tonight there will be some discussion of this. And if not, one way or another, this November, Americans will vote for a president who will decide to take some action on global warming.

SPECIAL ORDERS

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

SMART SECURITY AND GLOBAL CHANGE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Madam Speaker, in the days and weeks after September 11, 2001, Americans pulled together to restore our country after the worst terrorist attack in United States history. For the rest of September that year, there were no Democrats, there were no Republicans, there were only Americans.

In those trying times in the fall of the year 2001, I believe that no American would have hesitated to make a substantial sacrifice for the good of the country, just as Americans have done

in other times of need, like during World War II and the 1979 energy crisis.

If President Bush had asked America in the days after September 11 to cut down on the use of fossil fuels in order to reduce our dependence on Middle East oil, America would have responded. Sadly, the President did not ask us to do any such thing.

Instead of asking Americans to sacrifice, President Bush irresponsibly gave the top 1 percent of Americans a huge tax cut, leaving our children and their children to pick up the tab for the unnecessary war in Iraq, a cost already over $200 billion. Because nothing endangers America's security more than our reliance on Mideast oil, instead of promoting these reckless tax cuts, the Bush administration should have advocated immediate development of sustainable and renewable energy alternatives.

I am not the only one who realizes this. Just ask the good people at Physicians for Social Responsibility, the Friends Committee on National Legislation, and Women's Action For New Direction. These groups understand that our dependence on unsustainable energy sources, like Mideast oil, undermines America's security and our health.

And speaking about health, 50 years from now, our children will ask us how we allowed starvation, poverty, and diseases like HIV and AIDS and tuberculosis to flourish in other countries while the citizens of wealthy nations who have so much were not inflicted as greatly. That is why any attempt to fight terrorism must also include providing humanitarian aid to the poorest nations. Humanitarian aid in the form of food and medical supplies would restore hope to the world's poorest people. Nothing breeds terrorism like the hopelessness and despair brought about by starvation, disease and poverty.

For sure, the United States needs to lead the rest of the world when it comes to fighting terrorism, but the U.S., the strongest and richest country in the world, must lead by example rather than through invading other nations and killing thousands of innocent civilians in the process.

Throwing our weight around will not gain the support of other nations. Instead, we must meet our obligations under the Nuclear Nonproliferation Treaty, the Comprehensive Test Ban Treaty, the Biological Weapons Convention, and the Chemical Weapons Convention. There has to be a better way to respond to the threats America faces. That is why I have introduced H. Con. Res. 392, a SMART security platform for the 21st century. SMART stands for Sensible Multilateral American Response to Terrorism.

SMART security treats war as an absolute last resort. It fights terrorism with stronger intelligence and multilateral partnerships, and it controls the spread of weapons of mass destruction with aggressive diplomacy, strong regional security arrangements and vigorous inspection regimes. SMART security defends America by relying on the very best of America, not our nuclear capabilities but our capacity for multinational leadership and our commitment to peace and freedom around the world.

Madam Speaker, the true moral test of our government is not how many wars we win, it is our compassion, our compassion for those in the world who are less fortunate than we are. It is how we treat these individuals that determines the true moral quality of America. Physicians for Social Responsibility, the Friends Committee on National Legislation, Women's Action For New Direction, and many Americans understand this.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

H.R. 5149. An act to reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2005, and for other purposes.

H.R. 5183. An act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

The message also announced that the Senate has passed a bill of the following title in which concurrence of the House is requested:

S. 2436. An act to reauthorize the Native American Programs Act of 1974.

□ 1815

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

EXCHANGE OF SPECIAL ORDER TIME

Mr. NORWOOD. Madam Speaker, I ask unanimous consent to claim the Special Order time of the gentleman from Indiana (Mr. BURTON) at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

JUDGES OF MADISON COUNTY, PART 2

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. NORWOOD) is recognized for 5 minutes.

Mr. NORWOOD. Mr. Speaker, I come to the floor to once again discuss the judges of Madison County, Illinois, Part 2. It sounds like a book. Maybe it will be; maybe it should be.

Last night I rose to address what the American Tort Reform Association calls America's number one judicial hellhole, also known as Madison County, Illinois. As I promised then, I am back to shine a little more light into that hole. There is absolutely no doubt the ripple effect of frivolous civil lawsuits has been felt in every corner of this great country. When greedy trial lawyers get together to brainstorm which companies they can sue for millions and millions of dollars and put no less than 40 percent of their winnings in their own pocket, everyone loses; everyone, that is, except the trial lawyers. And one greedy trial lawyer who makes darn sure he never loses when it comes to lining his own pockets is Randall Bono from Madison County.

Mr. Bono has made a fair living doing business in this judicial hellhole on the backs of hardworking men and women. In fact, he was able to retire at the age of 42 from the millions of dollars that he won in asbestos civil lawsuits.

Madam Speaker, I may never know how Mr. Bono or other trial lawyers sleep at night knowing they have made their fortunes because of civil injustice being doled out in Madison County, Illinois, but I know as long as this hellhole remains open for business and scoundrels like Mr. Bono use it to take hard-earned money away from working folks, I will be in the well night after night in this House to stand up to say enough is enough.

I rise tonight specifically to address the first amendment violations of the courts of Madison County, Illinois. That is right; with the court's authority in Madison County, trial lawyers have violated or at least chilled the exercise of first amendment rights held by members of the media and civil defendants.

I admit, Madam Speaker, it is a rare occasion for me to stand up and defend the media, but I simply cannot and will not let the courts of Madison County trash the rights our forefathers worked so hard to ensure for everybody. If Members think the media or anyone else is safe from the wrath of Madison County, think again, Madam Speaker. Consider just a few of the cases outlined in my letter to Attorney General Ashcroft requesting a formal investigation of Madison County, Illinois and all their shenanigans.

In one effort to trash somebody's first amendment rights in Madison County, a plaintiff's law firm made legal maneuvers in June 2004 to try and force defendants to share and discuss any associations with or support of groups promoting tort reform. At least one of these groups has filed a motion for protective order with the court because their feelings about tort reform have absolutely nothing to do with the case before them, and forcing them to share this information is an infringement of their first amendment rights.

The Wall Street Journal editorialized that the plaintiff firm's requests have no legal merit and their purpose is simply to intimidate and coerce these folks.

In June 2003, the presidents of several major tort reform associations got slapped with subpoenas only after they appeared at a press conference to speak out against the outrageous litigation abuse in Madison County, Illinois. The subpoenas demanded that two of the individuals travel halfway across the country a month later to appear for a deposition in a product liability case. Once again, the clear purpose of these subpoenas was to harass and intimidate.

At an April 2004 public forum hosted by Washington University Law School in St. Louis, former U.S. Attorney General and former U.S. Court of Appeals Judge Griffin Bell said that counties like Madison County that are known for treating civil defendants unfairly are a stain on our system. Judge Bell called for a Federal investigation into the administration of civil injustice in Madison County, but again the wrath of the judicial hellhole was felt the very next day. A Madison County judge retaliated by barring Judge Bell and his firm from appearing in their courtroom.

Madam Speaker, we will continue this discussion every night until somebody looks into the injustices of Madison County, Illinois.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

(Mr. PALLONE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Mr. STUPAK. Madam Speaker, I ask to proceed out of order and take the time of my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ACCUTANE'S IMPACT ON BRAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. STUPAK) is recognized for 5 minutes.

Mr. STUPAK. Madam Speaker, last night I spoke on the floor about the troubling new information about the effects of Accutane. I will continue to speak out and advise Americans about the dangers of Accutane until the FDA does its job.

Next to me is a PET scan taken from a study completed by Dr. J.D. Bremner from Emory University. It is a brain scan of a patient who took Accutane. The first scan on the far right is the baseline scan before the patient even began Accutane. On my left here is a scan after 4 months of Accutane treatment. Dr. Bremner studied 30 patients, 15 on Accutane and 15 on antibiotics.

His research found that Accutane affects the metabolism of the orbitofrontal cortex, a brain area known to mediate depression in the front part of the brain. Four months after the baseline PET scan was taken, he found that with antibiotics, they had no changes in the brain. Accutane patients, those who complained of headaches, had a change in the front of the brain.

Even an untrained eye can see there is a difference in this PET scan. There is a 21 percent difference in the brain after 4 months of Accutane.

Dr. Bremner will present the findings of his study in November at a neuroscience conference. I will share those complete findings at that time. For now, his abstract is found on the Internet and we can see that Accutane causes changes in brain function.

Why is this important? Here is an e-mail I received from a family in North Carolina. ''On July 12, 2004, our precious 17-year-old son, Nicholas, took his life by a gunshot to his head. He had been taking the drug Accutane. I have read about what happened with your son, and certainly understand what you and your family are feeling. Like your son, Nicholas was a star athlete and honor student. Please send us any information you think would be of help. We are overcome with grief and still have a hard time realizing that he could take himself away from us and his four siblings.''

I receive an e-mail like this on average once a week or so. As of 2004, according to reports received by the FDA, there have been 235 suicides associated with Accutane. The FDA admits they are receiving only 1 of 10 percent of the actual events being reported. If 235 suicides represents 10 percent of the total, that would mean there are actually 2,350 suicides associated with this drug. If 235 suicides have been reported and it represents 1 percent of the total, that would mean there are actually 23,500 suicides associated with this drug.

Still, the drug manufacturer, Hoffmann-LaRoche, Roche Pharmaceuticals, continues to deny that Accutane affects the brain. Just look at this scan. It does. FDA believes there is a link. That is why there is a bold warning on its label, ''Accutane may cause depression, psychosis, and, rarely, suicide ideation, suicide attempts, suicide, and aggressive and/or violent behaviors.''

However, the FDA says they do not know the reason for this link. They need to look at these PET scans. They need to demand research, they need to demand answers. The bottom line, 235 young people have taken their life while on Accutane, including our son, B.J., who died in May of 2000.

Some patients never recover from their adverse effects to the drug. There is damage to the brain. I am constantly receiving e-mails like this one from Michigan. ''Dear Congressman, Just a note to thank you for your ongoing effort to educate the public about the dangers of Accutane. I am a psychiatric social worker in a hospital emergency room, and whenever I meet an adolescent patient who is depressed and taking Accutane, it raises a red flag. I make sure that the other social workers are informed about its link with depression and suicide, as I have a personal connection with it.

''My son Eric was an outgoing, happy kid and a respected leader in his school. He began taking Accutane at age 16 and, a few months later, began having difficulty keeping up in school. He failed to turn in homework and his grades took a nose-dive. To make a long story short, he became deeply depressed and he began talking about ending his life. That is when we knew this was not the run-of-the-mill ups and downs that teenagers sometimes have. We did manage to get help for him, but it was a long journey through a dark tunnel of despair. He is now 23 and still has a bright, articulate mind, but he is forever marked by the depression that stole his joy during adolescence. It is because of his journey that I have added an MSW degree to my high school teaching credentials, so I can be more educated to help young people who are at risk.''

As we can see, there is damage done to the brain. Why the FDA allows Roche to continue to market this drug is beyond me. We should not leave this drug out there until these questions are answered. Questions such as, is this damage to the brain permanent? For more than 20 years, the FDA has done little to address the adverse effects caused by Accutane. We know Accutane affects the brain. It is time for the FDA to pull this drug from the market until all of the questions surrounding Accutane are fully addressed.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

(Mr. CONYERS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

(Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HINCHEY) is recognized for 5 minutes.

(Mr. HINCHEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

(Mr. SCHIFF addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

TRUTH ABOUT IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. INSLEE) is recognized for 5 minutes.

Mr. INSLEE. Madam Speaker, I heard a very disturbing report today. While we are engaging in a very important and legitimate debate about our strategy in Iraq, one thing for sure we ought to be united on, and that is Americans ought to have access to the truth and not to be the subject of spin by their own government and should not have their own government suppressing the truth about Iraq. Things are difficult enough about Iraq without the Federal Government suppressing the truth about Iraq.

Unfortunately, that appears to be what is going on in this administration. Today in the Washington Post an article related that the USAID ordered the restriction of preventing distribution of reports by the contractor Kroll Security International which had previously shown that the number of daily attacks by insurgents in Iraq had increased significantly. In response to the news that these insurgent attacks are increasing, about 5 weeks before this election, this administration decided apparently to suppress that information and the agency ordered that this information no longer be disseminated to the American public.

This is information generated with U.S. American taxpayer dollars that this administration, 5 weeks before the election, does not want the American people to hear about.

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The article in The Washington Post says: ''The Kroll reports suggest a broad and intensifying campaign of insurgent violence.'' In response to that bad news, the agency official at USAID sent an e-mail to congressional aides stating, ''This is the last Kroll report to come in. After The Washington Post story, they shut it down in order to regroup. I'll let you know when it restarts.''

There is no excuse for this administration shielding information about Iraq and the fact that we have great difficulties there from the American people. We have a legitimate right to know this information. We have an important debate in our national body politic to figure out the right strategy in Iraq, and it is wrong to suppress this information.

We cannot decide the right decision in Iraq by looking through rose-colored glasses anymore. Hope is not a strategy. Simply saying we are going to have the same old, same old in Iraq and shield and hide the ball from the American people just will not cut it. Tonight it would be nice if the administration and the President admitted that we have some difficulties in Iraq and admitted we need to make some changes in strategy or we are going to have deep trouble.

But this is not the only symptom of an administration that is refusing to face reality in Iraq. In that same story in The Washington Post, I read that Secretary of Defense Donald Rumsfeld's office is now sponsoring a sort of happy talk, good news tour through our bases and that we are using taxpayers' money to bring Iraqis to spread the good news of Iraq to our military bases here in this country. The memo disclosing this tour paid for by taxpayer dollars says it is ''designed to be uplifting accounts with good news messages.'' Rumsfeld's office, which will pay for the tour, recommends that the installations seek local news coverage, noting that ''these events and presentations are positive public relations opportunities.'' We do not need a public relations campaign. We need a campaign for success in bringing our troops home in Iraq. We are not getting that from this administration.

The memo went on to suggest that the commanders at each base ''are in the best position on how to market this voluntary attendance program effectively.'' We do not need a marketing campaign. We need an honest discussion of how to get a strategy to bring our troops home after success. But that is not what we are getting from this administration. Instead of recognizing and coming clean with the American people about their failures to find weapons of mass destruction, their failures to tell the accurate situation about connections with al Qaeda, their failures to have enough troops on the ground, their failures to have enough body armor, they have given us a marketing technique protocol paid for with taxpayer dollars. It is wrong. We need a strategy, not a marketing campaign.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Under a previous order of the House, the gentleman from Ohio (Mr. RYAN) is recognized for 5 minutes.

(Mr. RYAN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

9/11 COMMISSION LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Madam Speaker, we have spent a number of hours on the floor of the House discussing issues that hold a great deal of emotion for many people around this Nation. With that said, I offer my respect for the different views that were expressed on the floor of the House, driven with emotion and passion, driven by your personal faith, and others as myself driven by the sanctity of our Constitution and the desire to preserve this Union.

It is interesting that the Republican majority would offer this debate at this time. There is no doubt that voices of the American people must be heard. But at the same time, an enormous responsibility of ensuring the safety and the protection of the American people by passing the 9/11 Commission recommendations through the Collins-Lieberman-McCain bill along with the House provision of the Shays-Maloney bill goes unattended. So what we have is a mishmash of provisions that have really nothing to do with the security of this Nation.

When we found that the CIA had, in fact, provided intelligence to this administration that if we went to war the insurgent aftermath, the efforts of the insurgents, the violence that would be perpetrated after any battle or war would be claimed over would be almost insurmountable. Yet because of the meshing of those disciplines, if you will, the complete glove-and-hand relationship between the CIA director, apparently that intelligence was ignored, and maybe because the CIA director failed to understand that his allegiance was really to the American people and not, in fact, to a single head of government.

The American people should have known that this intelligence ultimately was going to undermine any victory that was given or had by our brave men and women who were on the front lines for us, Reservists, National Guard, enlisted personnel, already doomed because of the fact that intelligence said that it was the insurgent action that was going to undermine peace and security and freedom in Iraq.

And lo and behold, here we are today with an insurgent movement, a terrorist movement that has overtaken Baghdad and Iraq. Yet this administration has no policy, has no exit strategy, has no relief, not only for the Iraqi people but for the American people. And while Baghdad is burning, we are refusing to take up the 9/11 Commission report.

All day yesterday in the Committee on the Judiciary, all we had was extraneous law enforcement matters that could be defended and could be promoted and argued and promoted at another time, extraneous immigration policies that had no place in a bill that is dealing with the safety and security of the United States of America, the immediacy of the 9/11 report.

And what was it? It was to establish a new structure of intelligence, to provide the leader of the intelligence community with budgetary authority. And what did our friends in the 9/11 legislation do? They argued against giving budgetary authority. With no budgetary authority, you have no authority because you cannot move intelligence resources where they are needed. And here we are ignoring the families of the 9/11 victims who have waited for 3 years for us to move forward with the necessary security.

Do you know why intelligence is so important, Madam Speaker? Because it was the FBI who had information already on their desk in the Midwest that told them that there were individuals in this country taking flying lessons, learning to take off but not learning to land; and the information never got off the desk into Washington, D.C. That is why the tragedy of 9/11 occurred.

Those individuals came into this country illegally. We have fixed that problem. We have worked to fix and improve the technology. The State Department has put in new criteria where visas are issued. We are working to stop terrorists before they come into our homeland. But unfortunately we have a debate as to whether the Select Committee on Homeland Security should even continue, when we know that Secretary Ridge said he wants a steady, organized, focused committee to deal with homeland security issues rather than the tens of tens that he has to go to. Is that securing America?

But on the politics of this Republican government, President, Senate, House, rather than deal with the serious issues, we are now taking away rights of Americans, trying to pass the PATRIOT Act, trying to pass in the bill that is supposed to be the 9/11 Commission report something that was never raised by the 9/11 Commission. We are now giving employers the right to call the Department of Justice on people's backgrounds. We are now putting that into place. Not just security officers, which I perfectly support, but anybody that is trying to cook hamburgers at McDonald's. That is not a function of the Department of Justice massively as it is. Yes, single isolated cases in circumstances where the necessity of knowing the background may be the requirement of the employment, but this is an outrage.

Then, of course, as I close, Madam Speaker, they then want to obliterate the Constitution and the very values of this country by sending individuals who are barely charged with ideas of terrorism into places where they might be tortured, not even convicted but maybe speculated that they may be associated with such and we are going to obliterate our values and send them home or send them someplace to be tortured.

This is what we have done this week, Madam Speaker, and I would just argue that we can do better. I would ask that the homeland security 9/11 Commission recommendations be placed into law by this body.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DAVIS of Illinois (at the request of Ms. PELOSI) for today on account of a death in the family.

Mr. HASTINGS of Florida (at the request of Ms. PELOSI) for the week of September 28 on account of official business.

Mr. REYES (at the request of Ms. PELOSI) for today after 4:00 p.m. on account of a family commitment.

Mr. GUTKNECHT (at the request of Mr. DELAY) for today after 4:00 p.m. on account of attending his daughter's wedding.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

Mr. RYAN of Ohio, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. INSLEE, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

SENATE BILLS REFERRED

Bills and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S 1601. An act to amend the Indian Child Protection and Family Violence Prevention Act to provide for the reporting and reduction of child abuse and family violence incidences on Indian reservations, and for other purposes; to the Committee on Resources; in addition to the Committee on the Judiciary for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

S. 2436. An act to reauthorize the Native American Programs Act of 1974; to the Committee on Education and the Workforce.

S. 2639. An act to reauthorize the Congressional Award Act; to the Committee on Education and the Workforce.

S. Con. Res. 110. Concurrent resolution expressing the sense of Congress in support of the ongoing work of the Organization for Security and Cooperation in Europe (OSCE) in combating anti-Semitism, racism, xenophobia, discrimination, intolerance, and related violence; to the Committee on International Relations.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4654. An act to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2007, and for other purposes.

H.R. 5149. An act to reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2005, and for other purposes.

H.R. 5183. An act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

H.J. Res. 107. Joint Resolution making continuing appropriations for the fiscal year 2005, and for other purposes.

ADJOURNMENT

Ms. JACKSON-LEE of Texas. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 42 minutes p.m.), under its previous order, the House adjourned until Monday, October 4, 2004, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9896. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determination — received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9897. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-P-7636] received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9898. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations — received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9899. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — National Flood Insurance Program (NFIP); Assistance to Private Sector Property Insurers (RIN: 1660-AA28) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9900. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9901. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket No. FEMA-7839] received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9902. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-D-7561] received September 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9903. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations — received September 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9904. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-B-7448] received September 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9905. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received September 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9906. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations — received September 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9907. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received September 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9908. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received September 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9909. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received September 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9910. A letter from the Chief Administrative Officer, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period July 1, 2004 through September 30, 2004 as compiled by the Chief Administrative Officer, pursuant to 2 U.S.C. 104a Public Law 88–454; (H. Doc. No. 108–221); to the Committee on House Administration and ordered to be printed.

9911. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zones; Charleston Harbor, Cooper River, S.C. [COTP Charleston-04-100] (RIN: 1625-AA87) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9912. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Suisun Bay, Concord, California [COTP San Francisco Bay 04-020] (RIN: 1625-AA87) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9913. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Potomac River, Washington, D.C. [CGD05-04-151] (RIN: 1625-AA87) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9914. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Potomac River, Washington, D.C. and Arlington and Firfax Counties, VA [CGD05-04-148] (RIN: 1625-AA87) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9915. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Cleveland Harbor, Cleveland, Ohio [CGD09-04-095] (RIN: 1625-AA87) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9916. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Manasquan River, NJ [CGD05-04-146] (RIN: 1625-AA09) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9917. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulation; Terrebonne Bayou, Houma, LA [CGD08-04-028] (RIN: 1625-AA09) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9918. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regualtions: Newton Creek, Dutch Kills, English Kills, and their tributaries, NY [CGD01-04-095] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9919. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Manasquan River, Manasquan Inlet and Atlantic Ocean, Point Pleasant Beach to Bay Head, NJ [CGD05-04-139] (RIN: 1625-AA08) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9920. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Pamlico River, Washington, NC [CGD05-04-133] (RIN: 1625-AA08) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9921. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Fireworks Display, Potomac River, Charles County, MD [CGD05-04-137] (RIN: 1625-AA00) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9922. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lake Eustis, Eustis, FL [COTP Jacksonville 04-096] (RIN: 1625-AA00) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9923. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Carriage of Navigation Equipment for Ships on International Voyages [USCG-2002-13057] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9924. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Enforcemnt of SOLAS Requirements [USCG-2004-17615] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9925. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Wearing of Personal Flotation Devices (PFDs) by Certain Children Aboard Recreational Vessels [USCG-2000-8589] (RIN: 1625-AA62; Formerly 2115-AG04) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9926. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulation: Anacostia River, Washington, DC [CGD05-04-028] (RIN: 1625-AA09) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9927. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Three Mile Island Generating Station, Susquehanna River, Dauphin County, PA [CGD05-03-116] (RIN: 1625-AA87; Formerly 1625-AA00) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. REYNOLDS: Committee on Rules. House Resolution 811. Resolution providing for the consideration of the bill (H.R. 5183) to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century (Rept. 108–710). Referred to the House Calendar.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 5107. A bill to protect crime victims' rights, to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide

post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes (Rept. 108–711). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. S. 551. An act to provide for the implementation of air quality programs developed in accordance with an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, and for other purposes (Rept. 108–712, Pt. 1). Ordered to be printed.

Mr. POMBO: Committee on Resources. H.R. 1630. A bill to revise the boundary of the Petrified Forest National Park in the State of Arizona, and for other purposes; with an amendment (Rept. 108–713). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 4817. A bill to facilitate the resolution of a minor boundary encroachment on lands of the Union Pacific Railroad Company in Tipton, California, which were originally conveyed by the United States as part of the right-of-way granted for the construction of transcontinental railroads; with an amendment (Rept. 108–714). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 3982. A bill to direct the Secretary of the Interior to convey certain land held in trust for the Paiute Indian Tribe of Utah to the City of Richfield, Utah, and for other purposes (Rept. 108–715). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Agriculture discharged from further consideration. S. 144 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BOEHNER (for himself and Mr. MCKEON):

H.R. 5185. A bill to temporarily extend the programs under the Higher Education Act of 1965; to the Committee on Education and the Workforce.

By Mr. BOEHNER (for himself, Mr. MCKEON, and Mr. WILSON of South Carolina):

H.R. 5186. A bill to reduce certain special allowance payments and provide additional teacher loan forgiveness on Federal student loans; to the Committee on Education and the Workforce.

By Mrs. BLACKBURN (for herself, Mr. COOPER, Mr. DAVIS of Tennessee, Mr. DUNCAN, Mr. FORD, Mr. GORDON, Mr. JENKINS, Mr. TANNER, and Mr. WAMP):

H.R. 5187. A bill to amend the International Air Transportation Competition Act of 1979 to modify restrictions on the provisions of air transportation to and from Love Field, Texas; to the Committee on Transportation and Infrastructure.

By Mr. BLUNT:

H.R. 5188. A bill to respond to the illegal production, distribution, and use of methamphetamines in the United States, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ISRAEL (for himself, Mr. ACKERMAN, Mr. BISHOP of New York, Mrs. MCCARTHY of New York, Mr. KING of New York, and Mrs. LOWEY):

H.R. 5189. A bill to amend title XIX of the Social Security Act to extend Medicare cost-sharing for the Medicare part B premium for qualifying individuals through September 2005; to the Committee on Energy and Commerce.

By Mrs. KELLY:

H.R. 5190. A bill to amend the National Dam Safety Program Act to establish a program to provide grant assistance to States for the rehabilitation and repair of deficient dams; to the Committee on Transportation and Infrastructure.

By Mr. PRICE of North Carolina:

H.R. 5191. A bill to amend title 3, United States Code, to extend the date provided for the meeting of electors of the President and Vice President in the States, and the date provided for the joint session of Congress held for the counting of electoral votes, in the event of an unresolved controversy or contest relating to the counting of votes in any State, and for other purposes; to the Committee on House Administration.

By Mr. RENZI:

H.R. 5192. A bill to modify the boundary of the Casa Grande Ruins National Monument, and for other purposes; to the Committee on Resources.

By Ms. ROS-LEHTINEN (for herself, Mr. LANTOS, Mr. BERMAN, and Mr. CHABOT):

H.R. 5193. A bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran; to the Committee on International Relations.

By Mr. SIMPSON (for himself, Mr. OTTER, Mr. PETERSON of Minnesota, and Mr. JENKINS):

H.R. 5194. A bill to clarify that service marks, collective marks, and certification marks are entitled to the same protections, rights, and privileges of trademarks; to the Committee on the Judiciary.

By Mr. SMITH of Michigan (for himself, Ms. BALDWIN, and Mr. BISHOP of Georgia):

H.R. 5195. A bill to permanently reenact chapter 12 of title 11 of the United States Code, relating to family farmers; to the Committee on the Judiciary.

By Mr. STENHOLM (for himself, Mr. RODRIGUEZ, Mr. FROST, Mr. LAMPSON, Mr. HALL, Mr. BELL, Mr. GREEN of Texas, Mr. TURNER of Texas, Mr. GONZALEZ, Ms. JACKSON-LEE of Texas, Mr. HINOJOSA, Mr. DOGGETT, Mr. HENSARLING, Mr. BRADY of Texas, Mr. THORNBERRY, Mr. ORTIZ, Mr. NEUGEBAUER, Mr. EDWARDS, Mr. CARTER, Mr. BURGESS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. REYES, Mr. BARTON of Texas, Mr. SANDLIN, and Mr. SAM JOHNSON of Texas):

H.R. 5196. A bill to designate the facility of the United States Postal Service located at 115 South Swenson Street in Stamford, Texas, as the ''Gordon Wood Post Office Building''; to the Committee on Government Reform.

By Mr. TERRY (for himself and Mrs. CAPPS):

H.R. 5197. A bill to amend title XIX of the Social Security Act to provide funds to States to enable them to increase the wages paid to targeted direct support professionals in providing services to individuals with disabilities under the Medicaid program; to the Committee on Energy and Commerce.

By Mr. UDALL of New Mexico (for himself and Mr. PEARCE):

H.R. 5198. A bill to clarify issues of criminal jurisdiction within the exterior boundaries of Pueblo lands; to the Committee on Resources.

By Mr. UDALL of New Mexico:

H.R. 5199. A bill to amend the Family and Medical Leave Act of 1993 and title 5, United States Code, to provide entitlement to leave to eligible employees whose spouse, son, daughter, or parent is a member of the Armed Forces who is serving on active duty in support of a contingency operation or who is notified of an impending call or order to active duty in support of a contingency operation, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on Government Reform, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WU:

H.R. 5200. A bill to improve the accountability provisions of the part A of title I of the Elementary and Secondary Education Act of 1965, and for other purposes; to the Committee on Education and the Workforce.

By Mr. EMANUEL (for himself, Mr. TURNER of Texas, Mr. JONES of North Carolina, and Mr. BAIRD):

H. Con. Res. 506. Concurrent resolution directing the Architect of the Capitol to establish a temporary exhibit in the rotunda of the Capitol to honor the memory of members of the United States Armed Forces who have lost their lives in Operation Iraqi Freedom and Operation Enduring Freedom; to the Committee on House Administration.

By Mr. KINGSTON (for himself, Mr. WHITFIELD, Mr. BURNS, Mrs. MCCARTHY of New York, Mrs. BONO, Mr. NORWOOD, Mr. BISHOP of Georgia, Mr. GORDON, Mr. SWEENEY, Mr. CHANDLER, Mr. ISAKSON, Mr. FORD, Ms. KILPATRICK, Mr. JONES of North Carolina, Mr. GOODE, Mr. LEWIS of California, Mr. LEWIS of Kentucky, Mr. DEAL of Georgia, Mr. BURGESS, Mr. LUCAS of Kentucky, Mr. HALL, Mr. SPRATT, and Mr. HEFLEY):

H. Con. Res. 507. Concurrent resolution encouraging citizens to be mindful of the contribution of horses to the economy, history, and character of the United States and expressing the sense of Congress that a National Day of the Horse should be established; to the Committee on Government Reform.

By Mr. OWENS:

H. Res. 810. A resolution expressing the sense of the House of Representatives that the Secretary of Homeland Security should designate Haiti, Grenada, Jamaica, the Dominican Republic, and the Bahamas under section 244 of the Immigration and Nationality Act to make nationals of those countries eligible for temporary protected status under that section; to the Committee on the Judiciary.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Mr. MEEKS of New York, Mrs. JONES of Ohio, Ms. JACKSON-LEE of Texas, Mr. LANTOS, Mr. CONYERS, Ms. MCCOLLUM, Ms. LEE, Mr. SCOTT of Georgia, Mr. HONDA, and Mr. BURTON of Indiana):

H. Res. 812. A resolution recognizing the commencement of Ramadan, the Islamic holy month of fasting and spiritual renewal, and commending Muslims in the United States and throughout the world for their faith; to the Committee on International Relations.

By Mr. GEORGE MILLER of California (for himself, Mr. PAYNE, Mr. RANGEL,

Mr. BISHOP of New York, Mr. WATT, Mr. WYNN, Mr. LANTOS, Mr. FILNER, Ms. KILPATRICK, Mrs. MCCARTHY of New York, Mr. EVANS, Mrs. DAVIS of California, Mr. GRIJALVA, Mr. MEEKS of New York, Ms. LOFGREN, Mr. CLAY, Ms. NORTON, Mr. CLYBURN, Mr. FALEOMAVAEGA, and Ms. KAPTUR):

H. Res. 813. A resolution recognizing the 60th anniversary of the explosion at the Port Chicago (California) Naval Magazine on July 17, 1944, and those who served and lost their lives in that tragedy; to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 97: Mr. LAMPSON.
H.R. 129: Mrs. LOWEY.
H.R. 296: Mr. MICHAUD.
H.R. 676: Mr. ENGEL, MR. WEINER, and Mr. OLVER.
H.R. 775: Mr. ROGERS of Alabama.
H.R. 808: Mr. COLE.
H.R. 870: Mrs. EMERSON and Ms. HERSETH.
H.R. 876: Mr. REYNOLDS and Mr. HASTINGS of Washington.
H.R. 879: Ms. HERSETH.
H.R. 918: Mr. GONZALEZ.
H.R. 1002: Mr. CUMMINGS.
H.R. 1093: Mr. BOSWELL.
H.R. 1212: Mr. FOLEY.
H.R. 1502: Mrs. JONES of Ohio.
H.R. 1582: Mrs. CHRISTENSEN.
H.R. 1666: Mr. ANDREWS.
H.R. 1726: Ms. HERSETH.
H.R. 1859: Mr. PETERSON of Minnesota.
H.R. 1886: Mr. PLATTS.
H.R. 2107: Mr. MILLER of North Carolina and Mrs. JONES of Ohio.
H.R. 2256: Mr. PRICE of North Carolina and Mr. WELDON of Pennsylvania.
H.R. 2354: Mr. BRADLEY of New Hampshire.
H.R. 2426: Mr. LARSEN of Washington.
H.R. 2541: Mr. VAN HOLLEN.
H.R. 2560: Mr. BRADLEY of New Hampshire.
H.R. 2680: Mr. GEPHARDT, Mr. QUINN, Mr. ALLEN, Mr. BOYD, Mr. ACKERMAN, Mr. SANDERS, Mr. BACA, Mr. DOLLEY of California, Ms. GRANGER, Mr. WELDON of Florida, Mr. SESSIONS, Mr. NUSSLE, Mr. KING OF NEW YORK, Mr. LUCAS of Kentucky, Mr. BOUCHER, and Mr. LIPINSKI.
H.R. 2699: Mr. NETHERCUTT, Mr. CANNON, Mrs. NORTHUP, Mr. MANZULLO, Mr. BISHOP of Utah, Mr. DOLLEY of California, and Mrs. BLACKBURN.
H.R. 2899: Mr. WALSH.
H.R. 2950: Mr. LAHOOD.
H.R. 3009: Ms. MCCARTHY of Missouri and Mr. NADLER.
H.R. 3103: Mr. CHABOT and Mr. WEXLER.
H.R. 3111: Mrs. NAPOLITANO, Mr. DOYLE, Ms. WOOLSEY, and Mr. WEXLER.
H.R. 3242: Mr. BERMAN, Mr. BECERRA, and Mr. BUTTERFIELD.
H.R. 3299: Mr. NADLER.
H.R. 3438: Mrs. CAPITO, Ms. CARSON of Indiana, Mr. SCHROCK, Mr. HALL, and Mr. WELDON of Pennsylvania.
H.R. 3455: Mr. CUMMINGS.
H.R. 3579: Mr. CANNON and Mr. BISHOP of Utah.
H.R. 3716: Mr. GREEN of Wisconsin.
H.R. 3767: Mr. STENHOLM.
H.R. 3847: Mr. LEVIN.
H.R. 3858: Mr. PICKERING.
H.R. 3859: Mr. MENENDEZ, Ms. KAPTUR, Ms. DEGETTE, Mr. MEEHAN, Mr. SCOTT of Georgia, and Mr. MILLER of North Carolina.
H.R. 4016: Mr. ACEVEDO-VILA.
H.R. 4026: Mr. ABERCROMBIE.
H.R. 4064: Mr. GOODLATTE and Mr. HAYWORTH.
H.R. 4065: Ms. HERSETH.
H.R. 4100: Mr. SMITH of Washington.
H.R. 4169: Mr. LEACH, Mr. BISHOP of New York, and Ms. NORTON.
H.R. 4204: Mr. KIRK.
H.R. 4343: Mr. HAYWORTH.
H.R. 4348: Ms. SCHAKOWSKY.
H.R. 4420: Mr. LEWIS of Kentucky and Mrs. CUBIN.
H.R. 4453: Mr. TURNER of Texas, Mr. STENHOLM, Mr. FROST, Ms. JACKSON-LEE of Texas, and Mr. POMEROY.
H.R. 4491: Mr. ENGLISH, Mr. OTTER, Mr. OLVER, Mr. BERRY, Mr. GILLMOR, Ms. ESHOO, Mr. STRICKLAND, Mr. TOWNS, Mr. ETHERIDGE, Mr. JOHN, Mr. QUINN, Mr. FOSSELLA, Mr. OXLEY, Mr. REGULA, and Mr. ORTIZ.
H.R. 4502: Mr. SESSIONS and Mr. BEAUPREZ.
H.R. 4521: Mr. GORDON.
H.R. 4578: Mr. JOHNSON of Illinois, Ms. LOFGREN, Mr. UDALL of Colorado, and Mrs. BIGGERT.
H.R. 4597: Ms. DELAURO.
H.R. 4616: Mrs. MALONEY.
H.R. 4628: Mr. KUCINICH and Mr. PRICE of North Carolina.
H.R. 4662: Mr. SOUDER and Mr. KENNEDY of Minnesota.
H.R. 4669: Mr. SESSIONS and Mr. CULBERSON.
H.R. 4674: Mrs. DAVIS of California.
H.R. 4682: Mr. DINGELL, Ms. LOFGREN, Mr. DAVIS of Alabama, Mr. BUTTERFIELD, Mr. CARDIN, Mr. MENENDEZ, and Mr. UDALL of New Mexico.
H.R. 4687: Mr. PETERSON of Minnesota.
H.R. 4706: Mr. KIND.
H.R. 4718: Mr. BERRY.
H.R. 4724: Mr. TAYLOR of North Carolina.
H.R. 4736: Mr. LYNCH.
H.R. 4776: Mr. PRICE of North Carolina.
H.R. 4792: Mr. NADLER.
H.R. 4832: Ms. SLAUGHTER.
H.R. 4866: Mr. ISSA, Mr. RENZI, and Mr. LINCOLN DIAZ-BALART of Florida.
H.R. 4875: Ms. MCCOLLUM.
H.R. 4899: Mr. DEFAZIO.
H.R. 4923: Mr. BOEHLERT.
H.R. 4927: Mr. SHUSTER, Mr. INSLEE, and Ms. LOFGREN.
H.R. 4928: Mr. ABERCROMBIE.
H.R. 4936: Mr. GONZALEZ, Ms. GINNY BROWN-WAITE of Florida, Mr. BLUMENAUER, Mr. MILLER of North Carolina, and Ms. SOLIS.
H.R. 4940: Mr. PLATTS.
H.R. 4978: Mr. SANDERS.
H.R. 4983: Mr. MEEHAN, Ms. BORDALLO, and Mr. CAPUANO.
H.R. 4985: Mr. GREENWOOD.
H.R. 5011: Mr. RYUN of Kansas.
H.R. 5022: Mr. BALLENGER and Mr. MEEKS of New York.
H.R. 5023: Mr. MEEKS of New York.
H.R. 5055: Mr. HOUGHTON, Mr. KOLBE, Mr. SCOTT of Georgia, Mr. NETHERCUTT, Mr. ALLEN, Mr. SANDLIN, Mr. GONZALEZ, Mr. UPTON, Mr. BURTON of Indiana, Mr. BOOZMAN, Mr. RADANOVICH, Mr. JOHNSON of Illinois, Mrs. KELLY, Mr. GILLMOR, Mr. WEXLER, Mr. WHITFIELD, Mr. LANGEVIN, Mr. MANZULLO, Mr. JENKINS, and Mr. PICKERING.
H.R. 5061: Mrs. BLACKBURN.
H.R. 5068: Mr. ETHERIDGE.
H.R. 5090: Mr. TERRY.
H.R. 5107: Ms. LINDA T. SANCHEZ of California, Mr. GOODLATTE, and Mr. BERMAN.
H.R. 5111: Mr. CUNNINGHAM.
H.R. 5113: Mr. GRIJALVA, Mr. HOEFFEL, Mr. WEINER, Mr. TIERNEY, Mrs. DAVIS of California, Mr. MCDERMOTT, Mr. RYAN of Ohio, Mr. KUCINICH, Mr. DEFAZIO, Ms. MAJETTE, Mr. DAVIS of Illinois, Mr. HINOJOSA, Mrs. MCCARTHY of New York, Mr. ANDREWS, Ms. WOOLSEY, Mr. OWENS, Mr. BISHOP of New York, Mr. HOLT, Mr. CASE, Mr. PAYNE, and Mr. KIND.
H.R. 5114: Mr. LEACH and Mr. ENGLISH.
H.R. 5120: Mr. SMITH of Michigan.
H.R. 5144: Mr. ROGERS of Alabama, Mr. MARSHALL, Mr. BONNER, and Mr. VAN HOLLEN.
H.R. 5167: Mr. MCHUGH.
H.R. 5176: Mr. UDALL of Colorado.
H.J. Res. 62: Mr. WELDON of Pennsylvania.
H.J. Res. 106: Mr. BONILLA, Mr. DUNCAN, Mr. GOODLATTE, Mr. SAM JOHNSON of Texas, Mr. LUCAS of Oklahoma, Mr. MCCOTTER, Mrs. MILLER of Michigan, Mr. NORWOOD, Mr. SANDLIN, Mr. TAUZIN, Mr. TAYLOR of North Carolina, Mr. CULBERSON, Mr. PUTNAM, Mr. TURNER of Ohio, Mr. LEWIS of Kentucky, Mr. MCINTYRE, and Mr. CUNNINGHAM.
H. Con. Res. 99: Mr. MORAN of Virginia.
H. Con. Res. 431: Mr. CROWLEY.
H. Con. Res. 490: Mr. WYNN, Ms. WATSON, Mr. MEEKS of New York, Mr. FARR, Mr. SERRANO, and Ms. JACKSON-LEE of Texas.
H. Con. Res. 496: Mr. CUMMINGS.
H. Res. 751: Mr. SHAYS, Mr. WEXLER, Mr. WELLER, Mr. ROTHMAN, and Mr. JACKSON of Illinois.
H. Res. 782: Mr. SERRANO and Mr. FILNER.

DISCHARGE PETITIONS

Under clause 2 of rule XV, the following discharge petitions were filed:

Petition 12, September 28, 2004, by Mr. MEEHAN on House Resolution 769 was signed by the following Members: Martin T. Meehan, James P. Moran, Jim McDermott, Bob Filner, David E. Price, John Conyers, Jr., Hilda L. Solis, Raul M. Grijalva, Wm. Lacy Clay, Steven R. Rothman, Joseph Crowley, Edolphus Towns, Jose E. Serrano, Charles B. Rangle, Robert A. Brady, Carolyn McCarthy, Rosa L. Delauro, Louise McIntosh Slaughter, Lois Capps, Adam B. Schiff, Nydia M. Velazquez, Chris Van Hollen, Xavier Becerra, Tom Lantos, and Rush D. Holt.

Petition 13, September 30, 2004, by Mr. EDWARDS on House Resolution 773 was signed by the following Members: Chet Edwards, Marion Berry, Diane E. Watson, Eddie Bernice Johnson, David E. Price, Adam B. Schiff, Hilda L. Solis, Raul M. Grijalva, Wm. Lacy Clay, Steven R. Rothman, Joseph Crowley, Edolphus Towns, Ruben Hinojosa, Robert Menendez, Dale L. Kildee, Jose E. Serrano, Charles B. Rangel, Julia Carson, Robert A. Brady, Benjamin L. Cardin, Leonard L. Boswell, Joe Baca, Tim Holden, Denise L. Majette, Carolyn McCarthy, Louise McIntosh Slaughter, Lois Capps, Charles W. Stenholm, James P. McGovern, Nydia M. Velazquez, Charles A. Gonzalez, Chris Van Hollen, Karen McCarty, Bart Stupak, Xavier Becerra, Robert E. Andrews, Tom Lantos, Rush D. HOlt, Allen Boyd, Frank Pallone, Jr., Peter A. DeFazio, Michael R. McNulty, and Susan A. Davis.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 11 by Ms. LEE on House Resolution 748: Tom Udall, Earl Blumenauer, Eliot L. Engel, Jim Davis, Dennis A. Cardoza, Joseph Crowley, Luis V. Gutierrez, Mark Udall, Adam Smith, Brad Miller, Chaka Fattah, James P. Moran, Robert Menendez, Baron P. Hill, Dennis Moore, Jose E. Serrano, David Wu, and Allen Boyd.

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PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

Vol. 150 WASHINGTON, THURSDAY, SEPTEMBER 30, 2004 *No. 121*

Senate

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

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

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

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

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

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

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

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

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

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

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

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

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

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

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

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

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

THANKING THE GUEST CHAPLAIN

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

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

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

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

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

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

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

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

COMPLETING THE INTELLIGENCE REFORM LEGISLATION

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

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

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

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

FARM SUPPORT PROGRAMS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

NATIONAL INTELLIGENCE REFORM ACT OF 2004

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

The legislative clerk read as follows:

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

Pending:

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

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

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

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

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

The PRESIDENT pro tempore. The Senator from Massachusetts.

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

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

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

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

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

Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

IRAQ—SHIFTING RATIONALE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SENATOR KERRY AND IRAQ

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

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

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

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

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

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

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

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

Yet those are two diametrically opposed positions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Congress declares that this section—

Which authorizes the use of the Armed Forces—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

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

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 3797

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This is obviously a significant step in the right direction.

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

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

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

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

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

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

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

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

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

Just to summarize his points:

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

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

of national intelligence will contribute to that objective.

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

Finally and above all, intelligence assessments must be credible.

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

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

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

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

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

As former CIA Director James Woolsey put it:

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

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

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

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

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

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

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

The letter concludes:

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

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

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

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

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

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

SEPTEMBER 27, 2004.

Hon. BOB GRAHAM.

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

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

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

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

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

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

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

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

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

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

Very respectfully,

TOM KEAN.
LEE HAMILTON.

The PRESIDING OFFICER. The Senator from Arkansas.

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

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

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

The PRESIDING OFFICER. The Senator from Arkansas.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Maine.

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

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 3797

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

The PRESIDING OFFICER. The pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

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

Mr. GRAHAM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Connecticut.

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

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

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

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

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

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

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

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

The amendment (No. 3797) was agreed to.

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

Mr. LIEBERMAN. It is deserved.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3801

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

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

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

The amendment is as follows:

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

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

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

(d) FUNCTIONS.—

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

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

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

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

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

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

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

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

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

(i) appropriately protect privacy and civil liberties; and

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

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

(e) REPORTS.—

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

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

(ii) to the President; and

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

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

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

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

(f) ACCESS TO INFORMATION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

That is the first part of the amendment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Arizona.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3806

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

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

Mr. MCCAIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To improve the transition between Presidential administrations)

At the end of the bill, add the following:

TITLE ___—PRESIDENTIAL TRANSITION

SEC. ___01. PRESIDENTIAL TRANSITION.

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

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

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

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

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

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

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

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

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

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

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

(c) SECURITY CLEARANCES FOR TRANSITION TEAM MEMBERS.—

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

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

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

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

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

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

I hope I made myself somewhat coherent in that explanation.

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

The Commission report states:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Maine.

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

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

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

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

The amendment (No. 3806) was agreed to.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 3807

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

The bill clerk read as follows:

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

Mr. MCCAIN. I ask unanimous consent the reading of the amendment be dispensed with.

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

(The amendment is printed in Today's RECORD under ''Text of Amendments.'')

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

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

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

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

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

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

According to the Commission Report:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Ms. COLLINS. I yield the floor temporarily.

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 3718

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

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

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

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

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

The amendment is as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) The oversight of Bureau field intelligence operations.

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

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

(6) Language services.

(7) Strategic analysis.

(8) Intelligence program and budget management.

(9) The intelligence workforce.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I thank the Chair.

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

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

Mrs. FEINSTEIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Maine.

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

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

The PRESIDING OFFICER. Is there objection?

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

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

The Senator from West Virginia.

PEOPLE DESERVE THE TRUTH

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

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

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

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

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

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

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

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

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

Thou shalt not bear false witness against thy neighbor.

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

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

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

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

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

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

The first amendment begins:

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

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

IRAQ

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

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

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

Let me read just the first few paragraphs:

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

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

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

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

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

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

Mr. President, I yield the floor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

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

Mrs. LINCOLN. I thank my colleague.

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

Mr. LAUTENBERG. I thank the Chair.

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

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

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

The PRESIDING OFFICER. There is an amendment pending.

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

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

AMENDMENT NO. 3802

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

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

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

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To stop corporations from financing terrorism)

At the appropriate place, insert the following:

SEC. ___. TERRORIST FINANCING.

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

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

(b) DEFINITIONS.—In this section:

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

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

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

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

(c) APPLICABILITY.—

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

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

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

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

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

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

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

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

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

As the 9/11 Commission stated:

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

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

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

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

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

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

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

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

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

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

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

The 9/11 Commission concluded:

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

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

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

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

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

I yield the floor.

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

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

IRAQ

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

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

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

Yesterday, the New York Times reported that

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

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

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

According to today's Washington Post, the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

How did we get there?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I urge my colleagues to oppose the amendment.

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

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

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

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

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

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

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

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

The 9/11 Commission Report said:

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

And that turned out to be a major obstacle.

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

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

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

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

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

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

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

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

The 9/11 Commission Report tells us that on August 15, 2001, the Minneapolis FBI field office initiated an intelligence investigation of Zacarias Moussaoui, a name well known to us now. This man entered the country on February 23, 2001, began flight lessons at a flight school in Oklahoma City, and began flight training at Pan American flight training school in Minneapolis on August 13. Mr. Moussaoui had none of the usual qualifications for flight training on Pan Am's Boeing 747 flight simulators.

Contrary to popular belief, he did not say he was not interested in learning how to take off or land. Instead, he stood out because, with little knowledge of flying, he wanted to learn how to take off and land a Boeing 747. The FBI agent who handled the case in conjunction with the INS representative on the Minneapolis Joint Terrorism Task Force suspected Moussaoui of wanting to hijack airplanes. This is August 15, 2001.

If these respective agencies had the benefit of the Phoenix memo, brought it together with this information about Mr. Moussaoui, wheels would have started to turn and dots would have been connected. But, sadly, that information was not shared.

I can go through other illustrations about why we need to share information when it comes to ships coming into the United States using the Great Lakes, which are near and dear to me as a Senator representing the great State of Illinois, and the city of Chicago, and how we can use existing information technology to link up facts and draw good conclusions to protect America.

Sadly, what we have found, despite the passage of 3 years since 9/11, is we still have not figured out how to make critical information in our Government computers and other systems of records compatible and combat terrorism with that new information.

In a statement before the House Government Reform Committee last month, James Dempsey, executive director for the Center for Democracy and Technology, a nonprofit public interest group, validated my concern. He wrote:

> To date, however, the government still does not have a dynamic, decentralized network for sharing and analysis of information.

He goes on with a much longer statement, but to think that 3 years after 9/11, after the omissions, errors, and shortcomings which I have pointed out, we still do not have a dynamic decentralized method for sharing and analyzing information, which is one of the key elements in the 9/11 Commission Report.

A case in point I frequently cite is the chronic delays in integrating FBI and Border Patrol fingerprint databases. This problem goes back at least 6 years, where the agencies have been unable to work out the transfer of information. In March of this year, the

Justice Department's Inspector General reported it will take at least 4 more years to combine fingerprint systems. In other words, fingerprints collected at the border cannot be checked against fingerprints at the FBI in an integrated fashion so that a suspect at the border can be found to have been someone with a criminal record or a history which gives us caution and pause. How can we be any safer if that basic technology cannot be in place? Six years we failed to come up with it. The estimate is another 4 years is needed before it might happen.

The FBI fingerprint database contains about 43 million ten-finger sets of known criminals' prints; the Border Patrol's separate fingerprint system, about 6 million two-finger sets of prints. One has to ask, at some point in time, did anyone think that both agencies should collect the same number of fingerprints from each person? Today it is much different. They did not integrate their effort because they were not going to integrate their information. Not integrating that information does not make us any safer.

For well over 2 years I have urged that we do something significant and historic to address this failure of our information-sharing system. I refer back to GEN Leslie Groves, who was authorized and empowered by President Franklin Roosevelt after Pearl Harbor to start what was then known as the Manhattan Project.

General Groves understood the possibilities of an atom bomb. At that point, there had been a cursory and casual inquiry into how it might be weaponized. After Pearl Harbor, President Roosevelt said: We need to get serious. We need to develop these atom bombs. He said to General Groves: Turn to the private sector, turn to Government, turn to academia, bring them all together, and do it in a hurry. We may need this atom bomb to end this war.

That is how the Manhattan Project was born. I have argued for quite some time now that if General Groves could accomplish that historic task in 1,000 days, we can in even less time see dramatic progress in developing the information technology we need as a Nation. I am sad to remind my colleagues in the Senate, it has been over 1,000 days since September 11, and reports from agencies across the board tell us we have not done that.

The Commission offers two key recommendations for achieving this unity of effort in sharing information. First, information procedures should provide incentives for sharing to restore a better balance between security and shared knowledge. Second, the President should lead the Governmentwide effort to bring the major national security institutions into the information revolution.

This is from the 9/11 Commission Report:

He should coordinate the resolution of the legal, policy and technical issues across the agencies to create a ''trusted information network.''

We understand that without this sharing of information we cannot be safer as a nation. No agency can do this alone. They have to cooperate with one another. Throughout the eight hearings of the Governmental Affairs Committee conducted over the past 9 weeks, I have urged that we make revolutionary change in information sharing an essential element.

I will tell my colleagues what section 206 of this bill, which comprises a large portion of the bill, does. We set forth precise and prudent directives for implementing a trusted information-sharing network. The President is directed to establish this network. The network is to be an environment consisting of policies and technology designed to facilitate and promote sharing. It is modeled on the comprehensive proposal by the Markle Foundation Task Force on National Security in the Information Age, which I would like to salute as another major factor in the development of this section of the bill, as well as the 9/11 Commission Report.

The network must have certain attributes. This network of information must be a decentralized, distributed, and coordinated environment; built upon existing systems' capabilities currently in use across the Government; utilize the industry's best practices, including minimizing the centralization of data and seeking to use common tools and capabilities whenever possible. I want to dwell on this for one moment.

Some of the critics have the wrong notion that we are trying to create a massive Government database. That is not what this bill sets out to do. What it sets out to do is to share the information to solve problems, to alert America to threats to our security. It is not a massive Government database.

Employ an information access management approach that controls access to data rather than just networks; facilitate sharing of information; provide directory services for locating information; and incorporate protections for privacy and civil liberties. This is another one that is absolutely essential. We want to have this information collected, processed, analyzed, and shared every step of the way.

Through the civil liberties board and express language in this legislation, we are mindful that we do not want to compromise the liberties and freedoms of Americans unless there is an absolute need to protect our lives and our security.

Guidelines must be issued. Requirements satisfying governing the collection, sharing, and use of information have to be made known so that this will be an item that is followed very closely.

Let me say what the network is not. Describing what the network is is only half of the issue. First and foremost, the network called for in this bill is not a centralized, consolidated system or database. Furthermore, it is not a mere network; it is a capability. It does not move data from current systems. It does not require all new systems. It is a means to make information in existing legacy systems sharable to authorized users. It is not based on any one architecture or platform. It does not require one encryption standard. It does not contemplate or require broad distribution of personally identifiable information. It does not remove authorization and access control from existing processes. It is not limited to supporting just the IC. It does not require next-generation technology to implement.

I see other Members have come to the floor of the Senate to address aspect of this bill, and I have spoken for a little over 30 minutes. I want to give them a chance to express their feelings. I will return to this issue next week.

I hope colleagues on both sides of the aisle will understand that this historic bill includes in it what I consider to be some of the most important weapons and important tools for protecting America against another terrorist attack. We have to be creative, which the 9/11 Commission Report admonishes us to do, but we also have to use information in sensible, thoughtful ways to make us safer.

A large section of this bill is directed towards that information sharing. I tried to engage the Senate in this debate when we created the Department of Homeland Security, but the time was not right. Everybody nodded in agreement, but I could not get anything done on the bill. Thank goodness this bill on the future of the intelligence community is different, and thank goodness on a bipartisan basis we have come to understand and believe that if we follow the 9/11 Commission Report, with trusted information sharing, America will be safer.

I thank Chairman COLLINS and Senator LIEBERMAN for providing this section in the bill. I look forward to working with them on the passage of this important legislation.

Mr. President, I ask unanimous consent to print in the RECORD an additional illustration on information sharing.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ILLUSTRATION NO. 3 SHIP IN U.S. WATERS

Of course, representing Chicago and Lake Michigan, I understand the importance of port security. Take a ship entering the U.S. waters that comes down the St. Lawrence Seaway. It comes into the Great Lakes.

What happens? Four agencies of the Federal Government collect information on that ship. One agency determines whether the ship is carrying contraband. Another Federal agency checks whether the ship has paid its tariffs and fees. Another agency determines whether the ship and its crew comply with immigration law. And another agency checks for adherence to health and safety regulations. One ship, four different Federal agencies.

Much of this information will end up in separate data systems. One of those, a $1.3

billion Customs Services project known as the automated commercial environment, is an import processing system. Another, the student exchange and visitor information system, is being developed by the Bureau of Immigration and Customs Enforcement within Homeland Security. Other border protection is held on databases held by the Coast Guard and by the Department of Agriculture.

The Transportation Security Administration also will collect and hold relevant information in its systems. Consider how many different agencies are concerned about the one ship that we might fear may be bringing the wrong people with the wrong cargo to threaten the United States.

None of these information systems are designed to communicate with one another. How in the world can we assure the American people of their safety when we are ignoring the most basic requirement—that these agencies—both people and technology—work together and share information? Don't we want to make certain that the FBI and the CIA had access to that information? In addition, the NSA, DoD, Department of Defense, State Department, State and local officials, all of them could benefit by having access to that information.

Observation: The information sharing environment of the Network would facilitate full and timely information access and exchange of the disparate information housed in each of the data systems. The Network would allow information to remain where it is created, but using standards, guidelines, and rules to be developed, make it share-able and accessible to authorized Network participants.

Mr. DURBIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from Illinois for his terrific contributions to this bill. He was the individual who brought to the committee's attention the woefully deficient information systems that have hindered the war against terrorism.

I remember how shocked I was at our first hearing, when the Senator from Illinois described the FBI being unable to transmit pictures of the 9/11 terrorists to its field offices. He also told us the FBI did not have the capacity to transmit fingerprints to the Border Patrol. Those underscored, in a way that few have been able to do, the lack of an adequate, integrated communications network within the Federal Government.

We worked very closely with the Senator from Illinois on this section of the bill. It incorporates his thoughts, his language, and it is his leadership that is behind those important provisions. So I salute him for being out in front on this issue and helping us come up with provisions that I think are going to make a real difference.

I salute and thank the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, even I want to thank the Senator from Illinois, a dear friend, a great colleague. He has made a very substantial contribution to this bill.

Senator DURBIN has a quality of service in the Senate that I have noted in some of the best colleagues with whom I have had the honor to serve. He thinks about matters, focuses on a problem, comes up with a solution, and he doesn't let it go until he gets it done. He saw a real problem here which others have seen but, frankly, have not focused on or grabbed ahold of as much, which is the woeful, outrageous, infuriating inability, up until this time, of our Government to put the best information technology at the disposal of those who are working to protect us.

The terrorists have figured this out. We all know about the opportunities for cyberterrorism. If you look at the number of hits that are made on even Defense Department sites, you can see the potential. We are beginning to have a very good capacity to launch our own offensives here, but this is about something else. This is just taking information, which is a key to protecting ourselves in the age of terrorism, and moving it quickly to the places it can do the most good. Talk about connecting the dots.

Anyway, Senator DURBIN is really singlehandedly responsible for this substantial title of the bill. I thank him very much for his contribution. It is part of why this bill is going to make a real difference in protecting the security of the American people.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 3823

Ms. COLLINS. I know Senator CONRAD is waiting to have a colloquy with the managers of the bill. I do have an amendment that I think I can dispose of very quickly. I ask unanimous consent that the pending amendment be set aside. On behalf of Senator VOINOVICH, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine (Ms. COLLINS), for Mr. VOINOVICH, proposes an amendment numbered 3823.

Ms. COLLINS. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To improve the financial disclosure process under the Ethics in Government Act of 1978)

At the appropriate place insert the following:

SEC. ___. FINANCIAL DISCLOSURE AND RECORDS.

(a) STUDY.—Not later than 180 days after the date of enactment of this Act, the Office of Government Ethics shall submit to Congress a report—

(1) evaluating the financial disclosure process for employees of the executive branch of Government; and

(2) making recommendations for improving that process.

(b) TRANSMITTAL OF RECORD RELATING TO PRESIDENTIALLY APPOINTED POSITIONS TO PRESIDENTIAL CANDIDATES.—

(1) DEFINITION.—In this section, the term ''major party'' has the meaning given that term under section 9002(6) of the Internal Revenue Code of 1986.

(2) TRANSMITTAL.—

(A) IN GENERAL.—Not later than 15 days after the date on which a major party nominates a candidate for President, the Office of Personnel Management shall transmit an electronic record to that candidate on Presidentially appointed positions.

(B) OTHER CANDIDATES.—After making transmittals under subparagraph (A), the Office of Personnel Management may transmit an electronic record on Presidentially appointed positions to any other candidate for President.

(3) CONTENT.—The record transmitted under this subsection shall provide—

(A) all positions which are appointed by the President, including the title and description of the duties of each position;

(B) the name of each person holding a position described under subparagraph (A);

(C) any vacancy in the positions described under subparagraph (A), and the period of time any such position has been vacant;

(D) the date on which an appointment made after the applicable Presidential election for any position described under subparagraph (A) is necessary to ensure effective operation of the Government; and

(E) any other information that the Office of Personnel Management determines is useful in making appointments.

(c) REDUCTION OF POSITIONS REQUIRING APPOINTMENT WITH SENATE CONFIRMATION.—

(1) DEFINITION.—In this subsection, the term ''agency'' means an Executive agency as defined under section 105 of title 5, United States Code.

(2) REDUCTION PLAN.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the head of each agency shall submit a Presidential appointment reduction plan to—

(i) the President;

(ii) the Committee on Governmental Affairs of the Senate; and

(iii) the Committee on Government Reform of the House of Representatives.

(B) CONTENT.—The plan under this paragraph shall provide for the reduction of—

(i) the number of positions within that agency that require an appointment by the President, by and with the advice and consent of the Senate; and

(ii) the number of levels of such positions within that agency.

(d) OFFICE OF GOVERNMENT ETHICS REVIEW OF CONFLICT OF INTEREST LAW.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Government Ethics, in consultation with the Attorney General of the United States, shall conduct a comprehensive review of conflict of interest laws relating to Federal employment and submit a report to—

(A) the President;

(B) the Committee on Governmental Affairs of the Senate;

(C) the Committee on the Judiciary of the Senate;

(D) the Committee on Government Reform of the House of Representatives; and

(E) the Committee on the Judiciary of the House of Representatives.

(2) CONTENT.—The report under this subsection shall—

(A) examine all Federal criminal conflict of interest laws relating to Federal employment, including the relevant provisions of chapter 11 of title 18, United States Code; and

(B) related civil conflict of interest laws, including regulations promulgated under

section 402 of the Ethics in Government Act of 1978 (5 U.S.C. App.).

Ms. COLLINS. Mr. President, I know the Presiding Officer has a great interest in the issue that we are about to briefly discuss. The amendment of Senator VOINOVICH would require the Office of Government Ethics to report to Congress on recommendations for streamlining the financial disclosure forms for the executive branch. In addition, the amendment would require each executive branch agency to examine the number of positions requiring Senate confirmation. It would ask the Office of Government Ethics to conduct a comprehensive review of the Government's conflict of interest laws, and it would require the Office of Personnel Management to provide Presidential candidates with a list of all appointed positions within 15 days of their party's nomination. This amendment is based on legislation that was favorably reported by the committee during the last Congress.

The 9/11 Commission recommended that the Senate should not require confirmation of appointees within the national security team below level 3 of the executive schedule. The Voinovich amendment lays the groundwork for this recommendation by requiring the executive branch to identify which positions could be eliminated from the confirmation process.

Review of that information by all Senate committees will help those of us in the Senate make a more informed and thoughtful decision on reducing specific positions that now require confirmation.

The financial disclosure requirements have been in effect for almost 25 years. Unfortunately, in some cases, they have deterred very good people from serving in the Federal Government. I hope this will lead to more effective, more efficient, and simpler requirements so it no longer will deter potential nominees from serving, or force them to go through great expense in order to comply with overly burdensome laws and regulations.

Again, this proposal is very consistent with the recommendations made by the 9/11 Commission and I urge acceptance of the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I am pleased to join the chairman of our committee in urging acceptance of this amendment. I thank Senator VOINOVICH and the occupant of the chair, the distinguished Senator from Tennessee, for their work on this issue.

This is a topic we have been talking about in the Congress for a long time. The occupant of the chair, having been vetted, considered, and confirmed for a Cabinet position in the past, knows the difficulties he and others have faced in fulfilling all those obligations, well beyond what most would deem to be reasonable.

What motivates this now is an extra dimension of concern. The September 11 Commission made it very clear that a catastrophic attack might well be more likely to occur during the transition from one administration to the other. Therefore, the Commission recommended that we should do anything we could reasonably think of that would speed up the process of filling national security positions in our Government.

Earlier today, I am pleased to say, the Senate adopted an amendment that Senator MCCAIN and I and others introduced to accomplish some of those specific recommendations of the 9/11 Commission. This amendment builds on that, goes beyond it, and makes the bill stronger by helping an incoming administration fill a wide range of its appointive positions more promptly, in some cases, doing what is just plain logical: requiring the OPM, Office of Personnel Management, to send information to Presidential candidates 15 days after they are nominated; describing positions that must be filled in the new administration. This would not only allow time to prepare it, it would create a sense of optimism and fantasy in the minds of candidates nominated as to what they would do when they were elected. The amendment also calls for reports that will help us and the President to consider ways to further improve and streamline the process of getting officials appointed and put into place.

It is a very good amendment. It builds on some substantial contributions Senator VOINOVICH made to the bill in committee. I am pleased to urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there is no further debate, without objection the amendment is agreed to.

The amendment (No. 3823) was agreed to.

Ms. COLLINS. Mr. President, I move to reconsider the vote.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CONRAD. Mr. President, I come to the floor to ask a number of questions of my colleagues who are managing the bill. I have very high regard for the chairperson, Senator COLLINS. I have worked with her on other matters and found that she is an extremely able and diligent Member. I admire the way she has handled this legislation. I have watched the process as it went through the committee. I am not on the committee but I watched as it was being televised. I thought it was a very professional process.

I also have very high regard for the Senator from Connecticut, Mr. LIEBERMAN. I am not on the relevant committees. I am not on the Intelligence Committee. I am not on the Defense Committee. I am on the Budget Committee and the Finance Committee and deal with these issues from a budget point of view and financing point of view.

With that said, I come to the floor to ask a series of questions. I want to indicate that I have with me charts that were prepared by the office of Senator LIEBERMAN to talk about what the structure currently is and what this legislation would do to change it and to raise a number of concerns that I have about that change.

First, I think we should indicate the problem we are confronting with the American intelligence community, where there is a lack of coordination and communication, which has been clearly outlined in a series of hearings and a series of reports, including the report by the 9/11 Commission, including the report by the Intelligence Committee, including the work of the very able chairman, the Senator from Maine, all that has been laid across the record very clearly.

This chart from the office of Senator LIEBERMAN shows the organization of the intelligence community as it is, with the President and the National Security Council overseeing the various agencies of Government, including the Director of Central Intelligence, the Secretary of Defense, but has within it the National Security Agency, the National Geospacial-Intelligence Agency, the National Reconnaissance Office, the Defense Intelligence Agency, and the Military Services and Combatant Commands. The large majority of the funding of the intelligence community is in the Department of Defense.

I think maybe that is too little understood by the general public. But that is fact. The large majority of the funding is not at the Central Intelligence Agency. I think people in the United States probably assume that is the case; it is not. The vast majority of the funding for intelligence operations is within the Department of Defense.

Other agencies that have a significant role, of course, are the Attorney General's office, because he oversees the FBI, and the FBI has responsibility for intelligence operations within the United States.

Then we have the Secretary of Homeland Security within which we have the Information, Analysis and Infrastructure Protection Director and the Coast Guard intelligence. The Secretary of State has the Bureau of Intelligence and Research, and the Secretary of Treasury has an intelligence branch, as does the Secretary of Energy.

The problem with this structure, which has been pointed out repeatedly, is that these are a series of stovepipes, basically leading only to the White House. There is nobody that is in overall coordination and direction of these various intelligence agencies. And the idea has been to have a national intelligence director that would have responsibility to coordinate and communicate with respect to these various agencies.

So the proposal before us is to create a national intelligence director with these other various agencies already

existing reporting to the national intelligence director, so there is someone in a position to coordinate and ultimately communicate what intelligence agencies are finding.

Let me just say that I thought that what was going to happen with the national intelligence director is that funds were going to be brought together and we would not have the continuing existence of all of these other agencies.

That is really what I want to ask the managers about. The concern that I have is if we have a failure of communication and coordination, especially between the FBI and the CIA, how does adding another entity, how does adding another player improve the chances for coordination and communication?

Let me say that I was trained in business management. My career before I came here was to manage organizations. My experience has been the more layers, the less communication, the more inefficient the communication.

When this was first outlined and I found out that the CIA is still going to exist, I must say I was taken aback. I was surprised by that. I thought the Central Intelligence Agency would become the new intelligence, with a new national intelligence director. Therefore, we wouldn't be adding another player to the mix, but we would be putting somebody in a position of authority so that we could hold them accountable.

The concern I have is instead of that, we have maintained a Central Intelligence Agency and all of the other intelligence agencies we had before, and added a national intelligence director.

The fundamental concern I have and the question I have is, Why has the committee concluded that this is the right way to proceed? Why wouldn't it be better by joining the function, reducing the number of players, reducing the number of boxes on the organizational chart, instead of adding a layer?

I would be quick to say I think you need to have a national intelligence director, somebody who is in overall coordination and control because before we did not have that.

That is really the question I came to the floor this afternoon to query the chairman and ranking member about.

I would be happy to yield so they might respond.

Mr. LIEBERMAN. Mr. President, I thank the Senator from North Dakota for his questions. I want to assure him, first, there will be no rental charges for the charts that were a joint product of Senator COLLINS's and my office.

To very briefly give the background, most immediately from the 9/11 Commission Report, when we said here repeatedly, and Lee Hamilton said during the course of our hearings during the investigation about how 9/11 happened, the Commissioners very often would say, Who is in charge? The answer more often than not was: No one. They concluded it was an organization without a head. That explained why the CIA would have information and not share it with the Immigration and Naturalization Service about people they would want to keep out of the country, or the FBI would have information and not share it with the CIA.

The result was we are athletes—a homelier analogy—that the American intelligence community is like a football team with a lot of very good players but no quarterback. So they are kind of doing their own thing; some of them sometimes seem to be in another stadium and we are not getting the benefit of the billions of dollars that we are investing.

The Commission recommended that we put someone in charge as a national intelligence director.

Right now, the President is at the top on the chart. The President can't exercise day-to-day control over the intelligence community.

Incidentally, this was the report of the 9/11 Commission. Most immediately, it was essentially the recommendation of the Joint Intelligence Committee of the Congress, and in the recent past created a national intelligence director. The Scowcroft report—though we have not seen it—everybody knows that it says there has to be a national intelligence director. In fact, these recommendations go way back to 1947 when the National Security Act was passed post-Second World War and the CIA was officially created. Here is part of the problem. This is part of what I want to answer about the question.

Part of the problem that all of these groups found was that the Director of Central Intelligence—as that position exists today, which was the same person as the Director of the Central Intelligence Agency—effectively became only the Director of the Central Intelligence Agency. That is part of why nobody was really directly overhead.

As we can see in the first chart, the director of the Central Intelligence Agency is over the CIA. The major recommendation was we have to separate those two, have a separate CIA Director, and then the national intelligence director who will be over all those stovepipes.

How will he or she break them up? Two things. First, and this goes on from Colin Powell and others, we said the existing DCI was supposed to oversee the whole intelligence operation. We gave them some power but did not get them budget power. As my friend from North Dakota said, 80 percent of the budget for intelligence goes through the Department of Defense.

In an episode that Senator COLLINS and I were struck by in the 9/11 report, Director of Central Intelligence George Tenet, in 1998, after a series of al-Qaida attacks, sends out a directive—then classified, now public—to the agencies under him and says, war has been declared against us by these terrorists: They hit the World Trade Center in 1993 with the bomb, they went after the embassies in Africa, et cetera. This is a declaration of war by us and the American intelligence community against al-Qaida, a war on terrorism. And no one responded. No one did anything because he is a general without authority.

It is the old biblical line, at the sound of the trumpet, be uncertain who will follow into battle and, unfortunately, here, one of the elements of a certain trumpet in the Washington bureaucracy is money, budget authority. So no one did anything.

When the Commission asked one of the heads of the boxes on the chart, Why didn't you respond to George Tenet, he said, We didn't think we had to; we thought that was a memo.

Separate CIA from the Director so he is not responsible only for that agency but everyone in the community, with the budget authority to enforce decisions, with transfer authority for personnel within the intelligence community and, one of the most important, form the budget. Do not let other agencies do it. Actually do the budget.

The Senator from North Dakota is one of the Senate's experts on budgeting, one who worries most about whether we are getting taxpayers their money's worth. Billions of dollars—it is a classified number, so I cannot state it—but billions go into intelligence every year.

One of my hopes, because we do not talk about it much, we talk about connecting the dot, the national intelligence director will, one, be a tough budget official; two, make sure we get our money's worth; and third, more budget authority and oversight over the constituents. And, too, maybe decide this box under me is getting more money in terms of the current threat to America than it should, but this one is not getting enough; I have to move this money around.

One more point. A critical element under the national intelligence director to help him or her connect the dots is the National Counterterrorist Center. The other centers he can create for separate problems such as nuclear proliferation or separate geographic public areas like Iran and North Korea. This is the place where he will bring together as never before all the constituent parts of the intelligence community. They will sit down. He can transfer people to those centers. He can give them assignments. Most of all, he can make sure they will pool their collection of intelligence, their analysis of intelligence and, very importantly, since they are around the table—they are talking with one another, they see the problem, they have an idea from the best intelligence, signal intelligence, imagery from the satellites we have, human intelligence from people on the ground—they will do some joint operational planning as to how to deal with the problem. How do we get bin Laden? Or if there is a terrorist cell in America, what is the best way to pool our resources to get them? We put somebody in charge and we give them real authority.

Incidentally, there will be amendments introduced, or already have been, that will come to a vote in the next 2 or 3 days aimed at cutting away at that power. I say, with all respect, probably folks worried about the Department of Defense losing some authority—Senator COLLINS and I are both on the Armed Services Committee. We have a deep commitment to the warfighters. We are confident this structure will actually give better intelligence to the warfighters.

That is my answer to your question.

Mr. CONRAD. Might I ask a followup question, because the Senator referenced these earlier reports going all the way back from 50 years ago. I fully support the concept of a national intelligence director. My concern is how we are implementing it. Did the earlier reports, including the most recent from the Intelligence Committees, from the 9/11 Commission, contemplate with the creation of a national intelligence director we would still have a Central Intelligence Agency?

Mr. LIEBERMAN. They did. Interesting question. As a matter of fact, this was a real priority for the 9/11 Commission, that we separate the CIA from the national intelligence director. The point is that the CIA is only one element of the remarkable assets we have in our intelligence community, including the so-called signal intelligence, the imagery from the satellites we have, the work coordinating domestic and foreign. Because the terrorists do not separate between domestic and foreign, now for the FBI it is made statutory under the bill creating a new directorate of intelligence, counterterrorism, working with the CIA under the national intelligence director. So the answer is yes.

In fact, my understanding of the original proposal for the National Security Act post-World War II was there be a separate national intelligence director overlooking a whole community and a separate CIA. Folks in the military community were able to blend the two and diminish—here in Congress we were worried about this—and diminish and separate the power of the DCI. We look back now, and the 9/11 Commission certainly did, and say that was part of the problem. They created the vulnerabilities and weaknesses and openings the terrorists took advantage of on September 11.

Mr. CONRAD. One additional question, if I could, on the budget authority inherent in this plan. I indicated the vast majority of resources actually go to the Department of Defense and the various intelligence operations within the Department of Defense. The Senator from Connecticut indicated it was as much as 80 percent.

In terms of management of an operation, are we going to be left with a circumstance in which 80 percent of the funding is at the Department of Defense? And if so, how do we avoid a circumstance in which the tail is wagging the dog? That is, typically one finds in organizations that initiative and power follows money. If there is at the top a relatively weak national intelligence director, with most of the functions and resources in a subordinate agency, that creates its own management challenges.

I am interested to know what the concept is with respect to budget authority. Who will have that overall authority over resources?

Mr. LIEBERMAN. I thank the Senator from North Dakota. He is absolutely right in his statement.

We heard from witness after witness in our committee's deliberations in August and into September that probably worse than the status quo—which is bad, without leadership—would be to create a national intelligence director and not give him the power to direct. This may be an old quote my friend is familiar with, but former CIA Director Jim Woolsey said: In Washington, there is a different definition of the golden rule. He who has the gold makes the rules.

We are making sure the national intelligence director has the gold, which is to say the budget authority, both to formulate the budget for this entire community of national intelligence—the so-called tactical military intelligence budget—that stays with the Department of Defense.

But while I cannot say the specific percentage, I will tell you under our proposal—again this is classified, but well over 50 percent of the budget authority will now go from the Department of Defense to the national intelligence director. So that position will have that budget authority in two ways. The first is to formulate the budget. Again, this is a very important colloquy because we are going to see some amendments that are intended to reduce the authority of the national intelligence director over budget to say he basically has to accept the budget proposals of the constituent agencies. That is not so in our bill.

The second very important point: Right now the budget for the intelligence agencies goes to the Department of Defense. Even for the CIA it goes to the Department of Defense, then to the CIA. In our proposal, the money goes to the national intelligence director and then that position parcels it out to the others.

Mr. CONRAD. Might I just conclude on that point, and then I am finished. I know there are other Senators waiting. I waited to have this opportunity because I think this is very important. These are questions I am getting.

Mr. LIEBERMAN. Sure.

Mr. CONRAD. In my position on the Budget Committee, people are asking me, how is this money going to be controlled? People are given responsibility. Do they have authority?

The final question I have with respect to the Department of Defense is, we heard the other day from the Secretary of Defense, Secretary Rumsfeld, who has a very strong management background. He expressed great concern, and I think it is a concern that absolutely deserves full consideration. His great concern, as I heard it the other day in our briefing, was that he is going to have a separation of responsibility from authority; that is, resources that are currently under his control and direction are going to move up the line to the national intelligence director. He and the warfighters have a fundamental responsibility and need for intelligence. He is concerned, with the separation of these resources—as the Senator describes, much of the budget moving from the Department of Defense level up to the national intelligence director—that he not be shortchanged and that his combatant commanders not be shortchanged of the resources they need to make tactical and strategic decisions.

This is my final question: What is the response of the leadership of the committee to his concerns?

Mr. LIEBERMAN. I thank the Senator from North Dakota.

Mr. President, I will begin, and if the Senator from Maine wants to get into this, I would welcome her doing so.

First, I would say, again, Senator COLLINS and I are members of the Armed Services Committee of the Senate. If we felt there was the remotest possibility this proposal of ours would shortchange the warfighters, we would not make it. And believe me, it does not.

A couple things to say: First, we make a distinction in this bill between the tactical military budget on one hand and the national intelligence budget on the other. The tactical military budget—intelligence officials who are working for individual services; Army, Navy, combatant commanders working on joint programs within the military for more than one service—that money all stays with the Department of Defense. But the national intelligence assets, which are used, let's say, for satellites—which are clearly used by the military but also provide information that is critically important for the Department of Homeland Security or the State Department in advising the President on critical foreign policy decisions—that is under the national intelligence director, as it should be.

The fact is, a lot of this is worked out in a consulting, consensus way. But we want to just raise that national interest here. The military will always be a priority customer of the intelligence community, but it is not the only customer. The President of the United States is the most important recipient of intelligence. The Secretary of State is very important; now the Secretary of Homeland Security.

I believe we have struck exactly a balance here in making sure the warfighter is well supported. We had very interesting testimony, which I can share with my friend, from two generals who are heads of two of the

constituent national intelligence agencies. They said to us they believe this proposal establishing a national intelligence director would be an improvement and be an improvement from the point of view of their agencies because it ended the ambiguity that exists now which they think is not good for their agencies and ultimately not good for the military.

I wonder if the Senator from Maine wants to get into this and answer some of the very good questions my friend from North Dakota has asked.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, first of all, I thank the Senator from North Dakota for the thought he has given to this issue. I know he has a great interest in management structures, in making sure we have the most efficient structure possible to serve the taxpayers. So I very much appreciate the spirit with which he has raised these questions.

I want to make three concluding points to emphasize some of the points already made by my colleague from Connecticut.

First, it was evident as we studied this issue and read the 9/11 Commission Report that the current system does not foster the kind of communication and cooperation we desperately need. It is a series of stovepipes with no one having the ability to make the final decisions, to resolve conflicts, to move resources and people where they are most needed. You cannot go to the President of the United States on everything.

I have seen that firsthand in the staffing of the Terrorist Threat Integration Center where the Director feels he needs more resources, other decisions have been made by various agency heads, and there is no one to step in and set the priorities, move the people, and direct the resources. I think our bill really changes that.

Like Senator LIEBERMAN, I was struck by Director Tenet's 12/98 memo in which he does this call to be at war and that all resources should be marshaled, and virtually nothing happened. That will change under our structure. There will be accountability under our structure because people will know who is in charge and whose call it is, and that is the national intelligence director. Our organization enhances accountability, cooperation, coordination, communication, and, most of all, results.

Second, the 9/11 Commission considered doing the kind of structure you have raised questions about. Essentially, that would be creating a department of intelligence. You would take all of these units out of the other agencies and do a brandnew department. And it felt—and I agree—that would be too disruptive, particularly at a time when we are at war; that it would be expensive, it would be complicated, it would take a long time to put into effect.

We have seen that with the Department of Homeland Security. That has been a massive undertaking. I am very proud of the leadership of Secretary Ridge and Admiral Loy, but it has not been without its growing pains. We just could not afford that kind of disruption right now.

Third would be the reaction of DOD if we took all of those entities out and put them in a new department. There was testimony of a former head of the Defense Intelligence Agency at a hearing on the House side in August. He said if you pulled those agencies, like the National Security Agency, the DIA, the NGA, the NRO—those that serve DOD and other consumers—if you pulled them out, you would see DOD re-creating within the Department new entities to replace those if you severed that link and transferred them. To quote William Odom, ''You're just going to end up with a big mess'' if you do that. That is why we came up with this structure.

Mr. CONRAD. The last reference of winding up ''with a big mess,'' whose quote is that?

Ms. COLLINS. William Odom, who is a former head of DIA. So we felt the case was very persuasive for the kind of organizational structure we came up with. That was recommended by the 9/11 Commission.

Having said that, I am sure it is not perfect. I am sure we are going to learn from it. That is why we have reports required back to Congress after a year's time and by the General Accounting Office Accountability Office in 2 year's time, because we want to make sure we get this right.

I think we have struck the right balance in the organizational structure we propose.

Mr. CONRAD. Let me conclude on this note: The thing I am most concerned about is having an entirely separate Central Intelligence Agency and an office of national intelligence director. The thing that I have a difficult time understanding is how that is not going to create its own turf battles, its own communications problems. I hope I am proved wrong by this, but it is the one thing I looked at and I was surprised by and, I must say, I wondered about.

I read the reports on the difficulties we had with the coordination between the CIA and the FBI and their turf battles and their unwillingness to share information. When we preserve the Central Intelligence Agency and create an office of national intelligence director and we still have, of course, the FBI's Office of Intelligence, I wonder whether we don't wind up with more turf battles. I know the intention is to avoid that and to appropriately create a place that will coordinate all the work of the intelligence community.

My great management concern is that we will wind up with additional turf battles. I hope that is not the case. I am glad the reviews are built in because I think that is important. I wanted to express these concerns publicly. I wanted to raise these issues and have a chance for the managers to fully respond.

I very much thank the chairman and the Senator from Connecticut.

Ms. COLLINS. I thank the Senator from North Dakota.

Mr. CONRAD. I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Maine.

Ms. COLLINS. Mr. President, I know Members are eager for us to vote on Senator LAUTENBERG's amendment, which I believe is the pending amendment. I hope to conclude the debate on that shortly and move to table his amendment. Senator STEVENS is in the Chamber and would like to lay down a couple of amendments. I will delay the debate on the Lautenberg amendment until after Senator STEVENS.

I ask unanimous consent that the pending amendment be set aside so Senator STEVENS may offer his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska.

AMENDMENT NO. 3839

(Purpose: To strike section 201, relating to public disclosure of intelligence funding)

Mr. STEVENS. Mr. President, I have filed a series of amendments. I would like to address the one on disclosure of intelligence funding.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself, Mr. WARNER, and Mr. INOUYE, proposes an amendment numbered 3839.

On page 115, strike line 13 and all that follows through page 116, line 23.

Mr. STEVENS. Mr. President, I direct the attention of the Senate to page 115. This is title II. It pertains to the amounts to be disclosed. It deals with amounts authorized and appropriated in each fiscal year.

My amendment follows the recommendation of the administration and, I might add, the intelligence community to think twice before we do this. It may be that we will want to do this after the NID comes into being and we all have a better knowledge of how these funds are going to be handled.

This amendment would require a further study of the disclosure of funds that are provided for intelligence programs. The basic need for this amendment rests on the testimony of the Acting Director of Central Intelligence John McLaughlin before the Governmental Affairs Committee. He said:

I would not go so far as to declassify the numbers for the individual agencies. I think that gives too much opportunity for adversaries to understand how we are moving our money from year to year from technical programs to human source collection and to other objectives.

In the administration's statement of policy, the administration is also concerned that the committee bill mandates disclosure of sensitive information about the intelligence budget. The

legislation should not compel disclosure, including to the Nation's enemies in war, of the amounts requested by the President and the amounts provided for the conduct of the Nation's intelligence activities.

I understand that the committee intends to comply with the recommendations of the 9/11 Commission with regard to this. But I think it is time we slow down a little bit and respond at least in part to some of the comments of those people who have spent their lifetimes now in our intelligence service.

I can tell you that I have not spent my whole lifetime there, but I have spent some 30 years now in terms of watching over the Defense Appropriations Committee and being part of it at least. In terms of being chairman and ranking member, it has been now 23 years. This concerns me greatly because one of the problems of the appropriators is to find ways to have an honest budget but to put the money where the enemies of this country, those who want to do us harm, do not know what our emphasis is way out into the future.

I remember when we started transitioning to electronic intelligence and how we traveled from place to place to look at these new satellites and the things they were going to do and got briefings on capacities. Those were developed over a series of years, and they got more complicated as they went along. But the money that was involved was substantial.

To have a disclosure of ''we are engaging in an entirely new effort in intelligence'' would be highly unwise.

I quote from the second page of the administration statement:

> The Administration is also concerned that the Committee bill mandates disclosure of sensitive information about the intelligence budget. The legislation should not compel disclosure, including to the Nation's enemies in war, of the amounts requested by the President, and provided by the Congress, for the conduct of the Nation's intelligence activities.

I am deeply concerned about some of the problems of how we find a way to maintain the secrets of this country with regard to what we are doing in terms of human intelligence. We are building up human intelligence at the same time as we are changing the utilization of the electronic concept of intelligence. And while I believe the time may come when we can find a way to disclose certain portions of the budget, I have a real resistance to this proposal that says:

> Congress shall disclose . . . for each fiscal year after fiscal year 2005 the aggregate amount of funds authorized to be appropriated, and the aggregate amount of funds appropriated by Congress for such fiscal year for the National Intelligence Program.

Then it directs the study of disclosure of additional information. We are certainly not opposed to the study. It is the mandate beginning in 2005. We are going to start, for the fiscal year 2006, disclosing these amounts at a time when there is great change in the intelligence community. The whole structure of the intelligence community will be changed by this bill. To start disclosing where money is going is to tell the enemies of this country where our emphasis for the future is. It is the future I am concerned about in terms of disclosure.

In the future we set up reserve accounts, and I will be talking about some of those soon. But if we set up reserve accounts, the reserves are classified as reserves because that is where they get the money for innovation and new developments. We don't have to disclose it. We don't have to tell them: Yes, we are going to build new satellites or we are going to build other devices that can listen to transmissions in the air and on the land and under sea.

We have a lot of secrets in this country. They are all related to intelligence. Let me repeat that. Every one of our secrets is related to intelligence. They are highly classified. Many of them are known only to the President and a close circle. Part of that circle includes Members of Congress who deal with the very high-level, classified programs of the intelligence services.

I urge that the Senate listen to us and listen to the administration and to those who have been involved in these activities. Again, I call to the attention of the Senate that when we returned and found there were a whole series of people who had not been heard on their viewpoints—they wanted to express their concerns—we held a hearing and listened to the intelligence people, who had great, distinguished records in the past. We listened to Secretary Kissinger and a whole series of people who wore our uniform and have been the top officers of our military. To a person, they do not believe we should move this fast on this disclosure item.

Let us have the study. We are entirely in favor of the study. But to mandate the disclosure in the bill we will prepare in 2005, I think, is much too early, in view of the changes taking place in the area of intelligence. This is where we are going to start to see if there is any reaction to those who have had experience in the area, to the President, and to those who have reviewed the whole thing. Is the Senate going to listen to these people with some experience and say, OK, let's study it, but not make the judgment first and then study it?

This disclosure in the next fiscal year is wrong, until we know what the policies of the NID are and what are going to be the policies of Congress and how we are going to handle this appropriation. It appears to me that the result of this bill will be to fractionalize the intelligence appropriation, anyway. Part of it is going to go to the Department of Defense; part will be split up into several agencies within the NID.

I think we ought to know first what we are doing before we decide what we are going to disclose so we can maintain the secrecy that is required in order to prepare for the future. This is not something to correct mistakes of the past; this is something to prevent making mistakes in the future.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I have enormous respect for the Senator from Alaska. He is an extraordinary Senator, with many years of experience. I do want to assure the Senator from Alaska that, contrary to the implication in his statement, the committee did not adopt the recommendation of the 9/11 Commission to declassify the aggregate budget totals of all the agencies that make up the national intelligence program. We did not adopt that recommendation of the 9/11 Commission because, based on our hearings and the testimony of our witnesses, we concluded that that goes too far and might well reveal information that would be helpful to those who would do us harm.

The only declassification in the Collins-Lieberman bill is the top line aggregate amount for the entire national intelligence program. It does not declassify the specific appropriations amount distributed to agencies such as the National Security Agency, or the Defense Intelligence Agency, or the CIA, even though the 9/11 Commission recommended declassification at that level.

Declassification, the top line, only that aggregate figure which has been estimated in the newspapers many, many times, I believe, will improve congressional and public oversight of the intelligence budget. It will help us with better decisionmaking on resource distribution, and it will make the structure and the management of the intelligence community more transparent.

We asked our witnesses, including the Acting Director of the CIA, John McLaughlin, his views. And he, like most of our other expert witnesses, told us that as long as the specifics of the intelligence budget remain classified, there was no harm to national security to declassify just that top line aggregate amount.

I think we struck the right balance in this regard. What we did is we included a study asking the national intelligence director to report back to us—to the Congress—on whether further declassification was appropriate. But the only step we took was that top line aggregate amount. If you don't declassify that in order to have a separate appropriation, then you end up, I fear, with the status quo—the money going through DOD accounts once again. That greatly weakens the budget authority of the national intelligence director.

Again, I have enormous respect for the Senator from Alaska. I wanted to make clear what our bill does and what it doesn't do, because I think we have reached the right decision.

Mr. STEVENS. Will the chairman yield for a question?

Ms. COLLINS. Yes.

Mr. STEVENS. I am looking at the bill. The bill says the President shall disclose to the public for each fiscal year after fiscal year 2005 the aggregate amount of funds authorized and appropriated for the national intelligence program. Then I go back to the page 6 for the definition of national intelligence programs. It says:

Refers to all national intelligence programs, projects, and activities of the elements of the intelligence community;

Includes all programs, projects, and activities (whether or not pertaining to national intelligence) of the National Intelligence Authority, the Central Intelligence Agency, the National Security Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, the Office of Intelligence of the Federal Bureau of Investigation, and the Office of Information Analysis of the Department of Homeland Security.

That involves five different bills in the appropriations process. We currently put in any one of those five bills a portion of the clandestine activities we are financing with these moneys. So what you are going to tell us is, we no longer can use any portion of those because we are going to disclose the whole amount in every one of those bills.

Listen to me. You have not lived with how we have financed the intelligence community. The money is not disclosed. It is put in parts of the budget and you don't know where it is. It rests with Senator INOUYE and me, to be honest about it, and we make sure that is what it is. Maybe four people in the House and Senate know where this is. You are telling us to disclose it, without regard to where we put that money—disclose the money that is in each account and it goes into five separate bills. I say that is wrong. Wait until the NID comes into office and have him tell us how we can disclose what should be disclosed to the public. The public should not ask us to disclose this very classified, secret information to protect the future of the country through clandestine activities and acquisitions.

I ask the question, does the Senator understand what her bill does? It will disclose the aggregate amount of funds—disclose them all, including the very, very top secret items, which probably three or four people in the White House, a few people in the CIA, or the DIA, and maybe eight people in the Congress would know.

Ms. COLLINS. Mr. President, I direct the attention of the Senator from Alaska to line 16 on page 115, which clearly says that:

The President shall disclose to the public for each fiscal year after fiscal year 2005 the aggregate amount of appropriations requested . . . for the National Intelligence Program.

It does not say that we are requiring disclosure of the appropriations for the elements that make up the national intelligence program.

Mr. STEVENS. It says:

The aggregate amount of funds authorized to be appropriated, and the aggregate amount of funds appropriated, by Congress for each fiscal year for each element of the intelligence community.

Both authorized and appropriated. That is on page 116, line 9.

Ms. COLLINS. Mr. President, I say respectfully to the Senator from Alaska that that refers to the study on whether there should be further declassification. It does not refer to the disclosure. The disclosure is only—and it is very clearly stated—of the aggregate amount of the appropriations for the national intelligence program.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, this is a very important discussion about another critical part of this bill. Obviously, the Senator from Alaska has had an extraordinary record of leadership in this and so many areas of the Senate. He knows the subject matter. He has lived with it a long time. I understand what we are proposing represents change. He is quite sincerely concerned about it from the point of view of our national security interests.

I most of all want to assure him we spent a lot of time thinking about this. We did not just go for the 9/11 Commission recommendation. The 9/11 Commission recommended that we disclose not only the bottom line of the national intelligence budget but, in fact, the budget of every single agency.

Their argument, as I am sure the Senator from Alaska knows, was that, one, the public has a right to know. Of course, we have to balance it—what we disclose to our enemies—against national security, but if the budgets of those constituent agencies were out in the public, then maybe over the years the public and more Members of Congress might have decided we were not putting enough money into human intelligence, CIA, et cetera, and that we were putting too much into signal intelligence and that we would not have had the shortfall many people think we have now.

In our committee, Senator COLLINS and I decided we were not ready to make that leap of disclosing the budgets of the 15 constituent agencies of the intelligence community because we thought there was some risk involved about signaling the movement of our resources to those who wish us ill.

Incidentally, there were some members of the Commission who felt very strongly about the disclosure of the budgets of all the agencies, including some former Members of this Chamber who really feel this was at the heart of it. We did not think so, and that is why we called for the study.

We think we have, however, achieved something for asking for the disclosure of the bottom line because at least that tells the taxpayers and all the Members of Congress how much money we are spending for intelligence.

In the course of this investigation, I asked some specific questions, obviously in closed settings, about the amount of money we are spending overall and for each individual agency. I was surprised at the answers I got. I think maybe more Members of Congress should ask those questions.

But this is what I think we do achieve by having the bottom line disclosed. We are fulfilling a responsibility to the taxpayers to let them know how much money we are spending on intelligence because it is just the bottom line, without giving any particular guidance to our enemies as to where we are putting that money.

The second point is, one result of this might be when more Members of Congress and the public see what we are spending on intelligence, which is so critical in the war on terrorism—intelligence is always critical in warfare and even more critical today because of the nature of this enemy which strikes at undefended targets, innocent civilians, and is crazy enough to blow themselves up.

So the more we can see and hear and know what they are planning, the more likely we are going to be able to stop them.

One conclusion, I say to my friend from Alaska, might be that Members of Congress and the public might conclude we are not spending enough on intelligence if they see the bottom line.

Mr. STEVENS. Will the Senator yield?

Mr. LIEBERMAN. Yes.

Mr. STEVENS. The problem is not that, from my point of view. My problem is we are going through a transition and saying for the very first year we are going to be asked to disclose the full amounts appropriated to the whole intelligence community.

My amendment strikes all of section 201, in effect. I urge, at the very least, that we strike that provision that requires disclosure in 2005. Let's have the study. I hope the NID will be able to make studies and get back to us sometime next year. But why put on us the requirement that we must collate and take all the moneys going to the intelligence community in 2006 when we are going to be working on that and, at the same time, he is making his adjustments in the whole community?

My effort is to protect the clandestine amounts, protect the amounts that are necessary for security. Why can we not at least agree to make it just the study? We all agree on the study. Maybe the Commission is right, and the Senator from Connecticut is wrong and I am wrong. Why don't we have the study and find out what the NID people think is right and then let us act on 2006?

Mr. LIEBERMAN. Mr. President, I say to my friend from Alaska, it is impossible that he and I can both be wrong.

Mr. STEVENS. We have been there before.

Mr. LIEBERMAN. We have been there before.

Listen, because of who you are and what you stand for, Senator COLLINS

and I will certainly think about this. We think we have struck a good balance in just asking for disclosure of the bottom line, no details, beginning public consideration of what we are spending on intelligence, and this study we ask for in 180 days, 6 months, and then we can make some judgments beyond that.

I yield the floor. I thank the Senator. This is an important discussion.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I believe I am a cosponsor of the amendment.

Mr. STEVENS. Yes, Mr. President, the Senator is, along with Senator INOUYE.

Mr. WARNER. This is a debate we had many years on the floor of the Senate. It has been a debate we have talked about so many times, and there has been a consistency in the voting in the Senate to recognize the wisdom not to release the budgets.

As yet, with all due respect to our managers and others, I have not heard an absolutely convincing argument to turn back at least several decades that this has been an issue of debate on this floor. What is it in the public interest or, most importantly, our national security interests that requires us at this time to reverse positions that have been taken by this Chamber, together with the other body, over the period of several decades that I have been privileged to serve here?

My concern is that this world today is so rapidly changing, and with the advancement of electronics and so many devices to determine what we in an open society are doing, why put the roadmap on the table for all to begin to search?

It has been my experience that if you put out half a loaf, it will be followed by a request to get the other half of the loaf. Were this provision to prevail, we would be back here in a very short time, some colleagues with the best of intentions, saying: Why don't you put it all out? Why should we have any of it secret? That, coupled with the fact I have in my lifetime never seen a period where there is greater uncertainty about the security of this country—because of the progression of weapons of mass destruction, because of the progression of terrorism, and the proliferation of individuals who are willing to give up their lives to do harm in this country and other parts of the world—I just do not think at this point in time, without following, I think, the sage advice of our distinguished President pro tempore, we need to reverse what this Chamber has considered and decided upon year after year that I have been here.

So I urge colleagues to support the amendment of the senior Senator from Alaska. I intend to strongly do so.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I heard the last part of the comments of the Senator from Connecticut. I suggest we put this aside and see if we can come to some conclusion.

The Senator makes a good suggestion of putting a time limit on the study and getting us to the point where we might be able to follow this suggestion by the fiscal year 2006 bill. That bill will, in all probability, move through the Congress, I would say, by the May, June, and July timeframe. With the 180 days, I am afraid the Senator may be referring to the start of the fiscal year. That bill goes through the House and Senate. These are the first bills—Defense and Homeland Security, and Intelligence. Obviously; It is going to be in the first three without any question.

So the 180 days is going to be June, and this bill will be moving through the House before that time.

We probably could catch it before they finish in terms of if there is a recommendation we need, but I would urge my colleagues to consider repealing the requirement for disclosure and say that we urge the NID to give us the earliest possible date for that disclosure, when it could be done in the national interest.

We are putting a lot of control and power in this person. Let's have him tell us when and if it should happen rather than direct it now. Make the study and leave it up to him to recommend to us, at least to what extent we should disclose, commencing in fiscal year 2006.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I want to read a few sentences from the 9/11 Commission Report on page 416 which I think are relevant. It says:

> . . . Opponents of declassification argue that America's enemies could learn about intelligence capabilities by tracking the top-line appropriations figure. Yet the top-line figure by itself provides little insight into U.S. intelligence sources and methods. . . .

Here is a point that one of the members of the Commission, again a former member of this body, made from the 9/11 Commission Report.

> The U.S. Government readily provides copious information about spending on its military forces, including military intelligence. The intelligence community should not be subject to that much disclosure. But when even aggregate categorical numbers remain hidden, it is hard to judge priorities and foster accountability.

That is in defense of disclosing the 15 individual agency budgets.

I say to the Senator from Alaska, who knows this better than I—and I am honored to serve on the authorizing Armed Services Committee—we give a fair amount of detail of the budget in terms of military programs.

Mr. STEVENS. Will the Senator yield?

Mr. LIEBERMAN. Yes.

Mr. STEVENS. Unfortunately, that is not a part of the report. That is a comment after the recommendation. It sort of demonstrates the extent of the knowledge they had about what they were dealing with in the recommendations, because that is not true. We do not disclose the amount we appropriate for defense intelligence. We disclose the amount in the budget that we support defense intelligence agencies with pay, facilities, and offices, but the amounts of their programs are not disclosed.

What I am saying to the Senator is, as we approach this, I think there is a growing desire to know how much money we are spending. The Senator may be right. Maybe people want us to spend more. I have wanted to spend more for a long time.

Mr. LIEBERMAN. I know that is true.

Mr. STEVENS. The problem is people ought to know what they are talking about before they change the system. In these budgets are both moneys for acquisition and for salaries, and somewhere in there is some money that everybody knows, in the intelligence community, where it is and what it is for.

In the Defense authorization bill there is a classified portion of that budget.

Mr. LIEBERMAN. Sure.

Mr. STEVENS. I am not even sure, other than the chairman and ranking member, if the Senator knows what is in there. I am saying so apologetically, but the system that requires secrecy in this country on some things is kept secret. This disclosure prematurely might trigger someone saying ''watch that'' in answering the question, and that would be bad because if they answer the question about what they knew was in there, that would disclose what they did not know was in there.

Mr. LIEBERMAN. A final response on this point. The Senator from Alaska says correctly if one looks at the overall budget of a given military agency, it does not tell what they are spending on different programs. So I want to assure the Senator from Alaska that under the committee's proposal, not only do we not talk about what is being spent on specific programs and specific intelligence agencies, we do not talk about what is being spent in those agencies. We talk about the one number, the conglomerate bottom line or top-line number, and I think that only gives a general idea of what we are investing in intelligence, far from any specific information about what we are investing in particular kinds of intelligence, signal, human, image, let alone specific programs.

I would not do this if I thought it would jeopardize our national security. In fact, that is why we did not call, as the Commission requested, for disclosure of individual agency budgets because we worried it might, and that is why we are asking for a report from the national intelligence director.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I will quote Acting CIA Director John McLaughlin from our September 8 hearing on this very issue. He said:

If there is a separate appropriation for the foreign intelligence program, the national intelligence program, as distinct from the current arrangement where that appropriation is buried in the larger Defense Department bill, I think it would make some sense to declassify the overall number for the foreign intelligence program.

That was typical of our witnesses.

I also note that the top line has been made public on occasion in the past. It was made public in 1997 and 1998 by the DCI.

At this point there are numerous Senators who are asking what the plan is for today and who are trying to catch planes. I ask for the regular order with respect to Lautenberg amendment No. 3802, and I ask unanimous consent that there be 2 minutes on each side prior to a motion to table the amendment. I further ask for the yeas and nays.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, it is my understanding that that would set aside the pending amendment and take up that procedure. We would come back to this amendment. Or is there another amendment in the queue by regular order?

The PRESIDING OFFICER. There is no other amendment in the queue by regular order.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask unanimous consent the pending amendment be set aside so I can call up my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3795

Mr. HOLLINGS. I call up my amendment numbered 3795.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 3795.

Mr. HOLLINGS. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To propose a substitute.)

Strike all after the enacting clause and insert the following:

SECTION 1. NATIONAL INTELLIGENCE COORDINATOR.

(a) NATIONAL INTELLIGENCE COORDINATOR.—There is a National Intelligence Coordinator who shall be appointed by the President.

(b) RESPONSIBILITY.—Subject to the direction and control of the President, the National Intelligence Coordinator shall have the responsibility for coordinating the performance of all intelligence and intelligence-related activities of the United States Government, whether such activities are foreign or domestic.

(c) AVAILABILITY OF FUNDS.—Funds shall be available to the National Intelligence Coordinator for the performance of the responsibility of the Coordinator under subsection (b) in the manner provided by law or as directed by the President.

(d) MEMBERSHIP ON NATIONAL SECURITY COUNCIL.—The National Intelligence Coordinator shall be a member of the National Security Council.

(e) SUPPORT.—(1) Any official, office, program, project, or activity of the Central Intelligence Agency as of the date of the enactment of this Act that supports the Director of Central Intelligence in the performance of responsibilities and authorities as the head of the intelligence community shall, after that date, support the National Intelligence Coordination in the performance of the responsibility of the Coordinator under subsection (b).

(2) Any powers and authorities of the Director of Central Intelligence under statute, Executive order, regulation, or otherwise as of the date of the enactment of this Act that relate to the performance by the Director of responsibilities and authorities as the head of the intelligence community shall, after that date, have no further force and effect.

(f) ACCOUNTABILITY.—The National Intelligence Coordinator shall report directly to the President regarding the performance of the responsibility of the Coordinator under subsection (b), and shall be accountable to the President regarding the performance of such responsibility.

Mr. HOLLINGS. Mr. President, I support the Hollings-Stevens amendment, numbered 3795. My amendment strikes and replaces the underlying bill with language creating a national intelligence coordinator, or NIC. Important work since September 11th of the 9/11 Commission, numerous Senate committees and others has convinced all of us that we must enact intelligence reform. I am impressed by the efforts of my friends Senators COLLINS and LIEBERMAN, and others, who have used their considerable skills to implement most of the recommendations of the 9/11 Commission. But I worry that the Senate is moving ahead with enormous restructuring, when we could address the main problem more immediately. 9/11 was clearly an intelligence failure, and we must act now to fix the most glaring problem—the lack of an intelligence coordinator.

My amendment fixes this most obvious, most severe problem with our intelligence structure by creating a national intelligence coordinator, or NIC. It will be the NIC's responsibility to sift through the work of all of our intelligence entities, both foreign, domestic and military and keep the President abreast of the intelligence community's findings in a coordinated, complete way. As it exists, the intelligence community's communications with the President cannot help but be haphazard. The President needs to have the huge volumes of intelligence information coordinated by someone he trusts, so he can make informed policy judgments. Thus, my amendment allows the President to select an intelligence coordinator as a member of the National Security Council, not subject to Senate approval. Just as President Bush has Karl Rove, whom he trusts and who coordinates the political intelligence throughout this Administration, the President needs a Karl Rove for national security intelligence.

This NIC will need sufficient staff and resources. So my amendment assigns to the NIC in his or her role as coordinator of intelligence activities, the staff and resources currently assigned to the Director of Central Intelligence, or DCI, that is now employed in the performance of his role as coordinator of the intelligence community, which he is not doing.

Many of the dozens of provisions in Collins-Lieberman would likely improve our system of intelligence. The Senate should study each of these provisions carefully, and enact the best of these provisions after such consideration. My amendment fixes the main problem in the meantime—the lack of a coordinator.

Collins-Lieberman creates a National Intelligence Director, or NID, and gives that person considerable power over budgets and personnel. The NID will control a new national counterterrorism center, and generally manage the intelligence community. The bill is problematic because the NID will wield unheard of influence over work of the intelligence entities, before that work even gets done. This is groupthink—personnel from 15 agencies work to get the Director the answers they know he wants. Personnel will neglect intelligence that takes them in directions they know the NID opposes. Reform should encourage more creativity, not less; more diversity within the intelligence community, not less. These agencies each do different things well—we need to take advantage of differentiation, not squelch it under the NID.

The national intelligence coordinator created by my amendment is unlikely to lead to this problem of Groupthink. The NIC will not control personnel and budget decisions. He will not have the power to fire people in other agencies that he disagrees with, or promote only people who share his worldview. He will not be able to manipulate policy direction of intelligence agencies and centers we may create. The NIC will coordinate, not meddle in the work itself. The 9/11 Commission decided that part of the reason the 9/11 plot was successful is the lack of creativity in our intelligence community. Stopping complicated terror plots before they happen requires flourishing intelligence diversity, and Collins-Lieberman will undermine diversity by concentrating intelligence output in one manager—the NID. We don't need a Director of Intelligence. We need a coordinator. We need to change the NID to NIC, the ''D'' to ''C''.

I would like to address concerns I have with the underlying bill related to Defense. In deciding what to do with

the Department of Defense's control over most intelligence dollars, Collins-Lieberman splits the baby. The bill transfers control over the budgets and some personnel decisions of the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office, from the Secretary of Defense to the NID without transferring control of the agencies themselves to the NID. The NID will develop and present the President with an annual budget request for these and other intelligence programs. It is unclear whether the Secretary of Defense or the NID will control the actual payroll. Under Collins-Lieberman, ''tactical'' military intelligence and the Defense Intelligence Agency will remain under the DOD. But the bill does not define ''tactical.'' Obviously, DOD will seek to define that term broadly, and the NID will seek to define it narrowly. I understand Senator FEINSTEIN may offer an amendment that would define ''tactical'' and provide some clarity, but even if that amendment is enacted, the battle will be waged over how to interpret the Feinstein definition of ''tactical.'' My friends Senators SPECTER, ROBERTS, SHELBY, DEWINE, BOND, WYDEN, BAYH and others already think the NID should have even more control over agencies currently within the DOD than the Collins-Lieberman bill would allow, but their amendment failed.

In short, there is confusion over what Collins-Lieberman transfers from the DOD to the NID and what it does not transfer. There is confusion over what ought to be placed underneath the NID, and what stays with the DOD. There is confusion over how budget, personnel and other types of authority can be bifurcated and trifurcated. This is a time for clarity, not confusion. The NID will also receive the appropriation for these and other intelligence programs, and in Collins-Lieberman the NID can transfer funds from one office to another as the Director sees fit. If the underlying bill is enacted as it is currently written, I forecast open warfare between the Secretary of Defense and the NID. Especially during a time of war, DOD will insist on funding defense/military-related intelligence work its way. This kind of turf war is bad for the country, and we should not enact intelligence that we can see is likely to pit the Secretary of Defense against the NID. If this painful transition needs to occur, we should at least consider waiting until after combat operations in Iraq have ended.

I am also concerned about some potential problems with the underlying bill's blurring of domestic and foreign intelligence. While I support the concept of fusing foreign and domestic intelligence, because that is what modern investigating and technology requires, this is a very sensitive and tricky area. Our Nation's history of domestic covert governmental operations shows the need to be careful here. Collins-Lieberman places the FBI's domestic counterterrorism activities and those of the CIA and DOD under the NID. But it does not address problems with locating domestic covert operations outside the FBI. The NID would have the power to ask the CIA or DOD to engage in such covert domestic operations. Our current governmental arrangements keep the CIA from participating in domestic intelligence activities, yet none of this would apply to the NID. Who is to say that the NID will not begin using the CIA to conduct extensive covert domestic activities? This new role for the CIA may actually be appropriate, but we have to be careful to draw rules for CIA domestic conduct that respect our Bill of Rights and other basic traditions. Using agencies other than the FBI for these domestic tasks also removes the Attorney General from its supervisory function. The Department of Justice is qualified to make difficult Bill of Rights judgments, but these other agencies may not be. These other agencies may not even be inclined to exercise restraint when they are investigating Americans. We could ruin cases against suspected domestic terrorists, because our intelligence operatives do not conduct their investigations according to constitutional requirements, and the cases get thrown out. And unless the stovepipes we hear so much about are eradicated immediately under this bill, which seems unrealistic, we may even have multiple agencies conducting duplicate investigations against American citizens, trampling all over each other and the law.

Collins-Lieberman also enacts the largest ever surveillance intelligence network, which can be data-mined by personnel in various levels of government. Senator STEVENS and others point out that we do not even have the technology to meld all this intelligence in one database. While coordinating information among agencies is laudable, it is unclear that Collins-Lieberman addresses dangerous side effects of a new network database. Collins-Lieberman directs the White House to violate privacy protections, but of the three branches, the executive branch has the least incentive to balance individual rights concerns. Congress never held any hearings to address the civil liberties problems with such a network, or with turning over to the White House power to write privacy guidelines. Administration guidelines and a civil liberties board, contained in the bill, are not as likely to strike the correct balance over privacy issues as Congressional oversight and public debate would. At the very least, we need committee hearings to consider the consequences to our civil liberties of enacting a national network database.

At this time I would like to say a few words about this underlying bill's possible impact on a couple of our intelligence agencies. Because of the bill's considerable scope, I will only raise a few of the potential problems with the bill's agency reforms. The bill hampers the FBI Director's ability to manage the FBI. The bill creates conflicting reporting requirements for the FBI's Executive Assistant Director for Intelligence, making her responsible to the FBI Director and the NID. She will support not only the FBI's counterterrorism and counterintelligence programs, under the NID, but also the FBI's criminal and cyber missions, which are not under the NID. The bill provides no clear way to separate FBI criminal investigations from its intelligence work. I would not want to be the Executive Assistant Director of Intelligence under this structure—with dueling bosses and duplicative reporting requirements. Also, will the National Security Council's role be weakened by the creation of a separate board chaired by the NID? Will the NID be allowed to deny the Secretary of State and other cabinet-level Secretaries personnel decision-making over their own subordinates? I understand Collins-Lieberman will give the NID authority over analysis. Where does this leave CIA analysts? The bill does not address what the new role for CIA analysts will be. Have these matters been worked out, or even discussed in a public forum? I have focused on several agencies I am particularly acquainted with through my experience on the Commerce, Justice, State Appropriations Subcommittee. I am sure my colleagues are raising similar problems with reforming the agencies under their Committees' jurisdictions, and I encourage them to come forward and help us understand these important issues.

Mr. President, I'd like to say a few words about policy too. This administration is extremely reticent to spend money in Afghanistan, and it was trying to funnel to Iraq funds Congress allocated for Afghanistan long before the President started the Iraq war. Collins-Lieberman empowers the NID to transfer funds and personnel directed by Congress from one agency to another. For example, this body may substantially increase U.S. assistance to Afghanistan—I understand Senators MCCAIN and LIEBERMAN have advocated just such an increase. If we add funds for Afghanistan onto this bill, the NID could scrap the funds for Afghanistan and transfer them to fund a new operation in Syria or Iran. The NID would have a responsibility to inform Congress that he had moved this money, but these funds would be moved nonetheless. It is Congress's duty to allocate such funds. Empowering the NID to override Congress's funding priorities is bound to lead the NID to undermine Congress's powers, and instead use shift funds allocated by Congress to advance the administration's agenda.

As we consider this bill under great political pressure and with the election looming, we have considerable analogous precedent to reference. Recent hasty Congressional enactments of Homeland Security legislation and the Patriot Act show the need for more

measured action. Collins-Lieberman is thrown together in a matter of weeks. Surely most of us agree that at least some of its provisions are problematic. Much of the conversation I have heard on the floor this week sounds more like campaigning than legislating. The White House identifies problems throughout Collins-Lieberman—will the House version appeal more to the White House? A hastily thrown together conference resolving differences in the House and Senate versions will not be conducive to finding and fixing these inevitable problems. My friend Senator STEVENS says, ''Do no harm''. Whatever comes back from conference will have a tremendous head of steam behind it. By acting too fast on Collins-Lieberman, the Senate may get stuck with House provisions in a conference report that are unpalatable. Once reform is enacted, fixing missteps is extremely difficult. Experiences of homeland security legislation, passed right before an election, and the Patriot Act, prove that hasty restructuring results in confusion, mistakes and paralysis.

I conclude by asking my colleagues to support my amendment. Let's act now and enact my amendment, which fixes the main problem of the lack of a coordinator, and then let's continue to act as we learn. Let's sift through the litany of approaches being advanced by my colleagues in the underlying bill, and the rival approaches being advocated by others both within this body and outside it. My amendment starts us on the right track to improving our intelligence structure, and it avoids the potential to start us on the wrong track.

I appreciate the outstanding work Senator COLLINS and Senator LIEBERMAN have done and thank them for that. They met over the break in August and worked around the clock to produce a product so we could get something done before we leave in time for the elections in November.

However, in those pressures of time, they have come out with a product that needs many more hearings, more deliberation, and more consideration. In essence, they have a national intelligence director who directs and manages. Immediately that raised the red flag for this particular Senator.

When I say ''raised the red flag for this particular Senator,'' let me tell of an experience. It was 50 years ago we had the Hoover Commission Task Force investigating the intelligence activities of this Nation. We had the McCarthy days, McCarthy charging there were Communist spies and agents within the State Department, within the Defense Department, within the executive branch, and everywhere throughout the Government. President Eisenhower appointed the Doolittle Commission and they came out with what was considered generally in the Congress as a whitewash. The White House and Congress got together and agreed efforts should be conducted to reorganize the executive branch, thus, President Hoover's commission came to be.

A task force was headed by General Mark Clark. I served as one of those members of the task force investigating the CIA, the FBI, the Army, Navy, air intelligence, Secret Service, Q clearance, atomic energy intelligence, and on down the list. We spent some 2 years. After hearings and consideration of the generally speaking minute intelligence information at that time—I say ''minute'' for the simple reason that the intelligence information now correlated by the various entities and departments and agencies is like drinking water out of a fire hydrant. You have much, much greater volume. But even then we found the need for a coordinator.

I can see Allen Dulles of the Central Intelligence Agency. Director Dulles of the CIA said, I have my hands full trying to get the work done properly of the CIA, much less as the head of intelligence activities in the Government, namely the coordinator of all intelligence, the centralizer of all intelligence. That is why it was called the Central Intelligence Agency. He said, I have too much work to do. What we need is one single intelligence coordinator to coordinate all of it—my work, the FBI, Defense Department, military.

In those days all we had was foreign intelligence and military to bother with. We did not have terrorism threats and counterterrorism within the continental limits. Now we have heaped upon the responsibilities of the intelligence community all kinds of duties that need further deliberation and estimation because, as I say, the director of the national intelligence, when they said ''direct,'' when they said ''manage,'' I said heavens above, here is a flaw of September 11 intelligence. It was directed. It was managed. Everyone knows that now after the hearings.

The Vice President had his own little cabal in that Department of Defense. They had met with the head of the Defense Advisory Council, Richard Perle, and Scooter Libby and that group. They had submitted to the country of Israel in 1996—Benjamin Netanyahu was coming in as Prime Minister, and they submitted at that time that Saddam ought to be replaced with the Hashemite rule and they wanted to democratize Iraq back in 1996.

When Netanyahu refused doing that, they came back and organized themselves into the Project for the New American Century and they have been pressing forward ever since.

So when you direct and when you manage intelligence, you have a flawed product. We need coordination. You need to take the best of the best from the CIA, from the FBI, from the National Security Agency, from the National Reconnaissance Organization, and all these other entities and coordinate into a product to give to the President.

Suppose you were President in the next 10 minutes and you heard about a terrorist threat, not only foreign but domestic. What you would want in line, you would want a Karl Rove on intelligence. Now, the President has a Karl Rove on political intelligence. Karl Rove can tell you for any section of the country what is going on in any particular State. He has pollsters. He can give a consummate judgment or alternative to the President to make a judgment. That is fine business. We have that without legislation.

We need just that in security intelligence—not only foreign, not only domestic, not only military, but all three—security intelligence coordinator.

So when I say the national intelligence director directing and managing, I am saying, here is a flaw of September 11. You know the groupthink policy of the President. If you are directing and managing intelligence, what you do is go immediately and give that intelligence to the folks making the Presidential policy and you develop a group-think and a flawed product.

We do not want, necessarily, a director, certainly with all the duties that this particular director is burdened with but, rather, we want a coordinator. He should be or she should be in the National Security Council, appointed by the President, without confirmation by the Senate. You have to have your own person in there. And you have to not have him or her running over to several committees in the Senate and several committees in the House testifying about this management, this direction, this decision, this or that policy. He will have his hands full just with what the President wants.

Necessarily, we transfer those coordination responsibilities from the CIA over to this national intelligence coordinator. This is a short, two-page amendment by Senator STEVENS, Senator INOUYE, Senator COCHRAN, and myself. This was worked out this afternoon. I was trying to listen to the debate, and the more I listened, the more it impressed me that we needed much more deliberate work and consideration, and not the crunch of a national election to get all of us out of town and do something. So we are trying to respond to that edict of ''don't just stand there, do something.'' I am afraid we are going to enact the ''Alka Seltzer'' intelligence bill: I don't believe we passed the whole thing.

Look what it does. It directs and manages, but what intelligence is under the Department of Defense and what intelligence is under the national intelligence director. I searched and I found conflicts throughout the particular Collins-Lieberman measure, especially during a time of war. I can tell you, you are going to find all kinds of conflicts there. There are conflicts going on right now with the war in Iraq and the Secretary of Defense saying he is not going to stand for it. The national intelligence director has the defense intelligence budget, but then the

secretary of intelligence has the defense intelligence function and responsibility. And the Secretary of Defense does not have budget control over what he has responsibility. And then there is the ''ying'' and the ''yang'' of defense intelligence versus tactical intelligence. And I have listened to some, the distinguished Senator from California and others, on what they consider tactical intelligence.

On civil liberties, there are real grave concerns there because there is within the Federal Bureau of Investigation, that investigates crimes and protects civil liberties, a culture, a paradigm, and a discipline. The Justice Department has developed that over the years of different FBI Directors. Now, with respect to the national intelligence director, he can direct covert activity to be taken on by the FBI with none of that discipline and none of those checks and balances.

You have heard the distinguished Senator from Alaska with respect to the national intelligence director's transfer of funds, not only the reporting of funds. I can tell you now that will never happen where you can transfer funds because the Appropriations Committee has that responsibility.

I can go down the different disclosure of funds and various other things. What I want to emphasize is that I am not trying to disparage any of the wonderful work being done by our Governmental Operations Committee. They have a product out here now that we can develop and work upon and iron out the differences. But it should not be under the pressure that we are in and having passed ipso facto the Collins-Lieberman bill. You would not satisfy the problem of 9/11, and that is coordination.

You need the President's man or woman in that National Security Council, auditing, gaining, and getting. And mind you me, don't worry about getting it, now that you have a coordinator sitting there with the President. For example, that Arizona flight school information that did not get through the FBI to the coordinator, because they did not have one, is excused. That Minnesota terrorist who did not want to land the plane, all he wanted to do was fly it into a building; that came to the CIA but did not get to the White House. Known terrorists came into the country, passed the Immigration department, and the Naturalization Service. That did not get to the Director.

But mind you me, if you have a coordinator, and the information of that importance does not get through to that coordinator, the opposite is going to be true. Rather than the old days when you held within your particular department or agency your intelligence and your information, and you did not tell the FBI, and the FBI did not tell the CIA, here you are going to try to regurgitate and spit up and throw out and report to that coordinator. Because if he does not get it at the White House level, heads are going to roll.

So we have changed the culture and discipline by having one coordinator. That is all you need. We can go home and know that the job is done. The FBI is working. The CIA is working. The National Security Agency now knows not to wait until tomorrow to translate their go signal. As they went into the World Trade Towers, they were a day late in translating documents.

We can go home and know that the President is equipped with a coordinator. And immediately, if I am running the CIA or FBI, I am going to start getting my information out rather than hiding it. That is the real difficulty: The dots were there, but the dots were not joined. With the Collins-Lieberman bill what you are instituting and legislating into law is the flaw of 9/11. You have a director of intelligence. You have a manager of intelligence. And that is how they got into the World Trade towers and into the Pentagon. It was managed.

I can see the President on October 7, 2002, in Cincinnati. ''Facing clear evidence of peril, we cannot wait until the smoking gun is a mushroom cloud,'' he said. Seven days later I voted for the authority to go to the war when the President asked—I did not sit on the Intelligence Committee. When my Commander in Chief says: ''Facing clear evidence of peril, we cannot wait until the smoking gun is a mushroom cloud,'' I voted aye. Then I found out there weren't no smoking guns, there were no mushroom clouds, there were no facilities, there were no weapons, there were no terrorist threats. But that is another argument.

I am trying to get something done where we in good conscience can protect our national security, protect us against domestic terrorism. And we can fix this bill.

Now, let me add one little thing. I don't know whether Senator STEVENS, my dear colleague, or Senator INOUYE or Senator COCHRAN wants to talk. But I would agree, I don't need, unless I am questioned, another 10 minutes. And I know they have amendments of their own. So I would agree to a time limit on either side if the distinguished managers of the bill are trying to get to a vote.

Ms. COLLINS. How much more time does the Senator from South Carolina believe he would require?

Mr. HOLLINGS. Let me reserve 10 minutes. I don't know if I will use it.

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senator from South Carolina be accorded up to 10 minutes more for his debate, and then that Senator LIEBERMAN and I have up to 10 minutes for us to use in opposition to the Hollings amendment. Then it is my intention to move to table.

The PRESIDING OFFICER (Mr. SMITH). Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I will use just 1 minute for the Hollings-Stevens-Inouye-Cochran amendment. It is my policy, and it is not to be treated casually. It is to be treated seriously because what we are going through is this exercise here. And if you had the Collins-Lieberman bill up, I would vote to get it to the House and let them try to hammer it out. They don't have the coordinator.

I was just about to say, the reason they didn't have that coordinator is that the 9/11 Commission is even Stephen, Republican-Democrat. And they wanted to have a unanimous report, and I agree with that. So they didn't hammer and zero in or bull's-eye the real need and the real fault of 9/11. They didn't join the dots. They didn't have a coordinator. And if they were going to come out on that unanimously, they would have found fault at the White House level. It is just as simple as that.

I know another time in the history of this Government where we knew full well that President Reagan knew about the Contras, at least I was convinced so. But you couldn't report it. You couldn't say it. You couldn't do it for the simple reason that these so-called commissions that are now sanctified are really politically balanced, and they leave out the necessary one. In this particular instance, we need a coordinator. You can get all of the directors. You can get all of the budgets. You can get all hammered out about the Defense Department. Just leave it all alone or put it all through. And you haven't satisfied and gotten a coordinator at the National Security Council.

We had that amendment early on last year, and the vote was 49 to 48. We put him on. I had that amendment up. It was a partisan vote.

Now I have worked yesterday and today to explain it to colleagues on the other side of the aisle, and it is bipartisan by the most responsible of Senators other than myself. I hope we don't treat it casually as something to be tabled and walk away and say: Let's have another amendment. We don't want to vote on Friday. Let's get some votes.

We are all thinking about procedure and not thinking about the country. We are all thinking about the campaign and not the country.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, the amendment offered by the Senator from South Carolina eviscerates the underlying bill. I want to be very clear about that. His amendment takes a radically different approach to intelligence reform. The Hollings amendment creates a national intelligence coordinator and transfers to this individual the responsibility and authority that the Director of Central Intelligence now has as head of the intelligence community. The DCI would remain as head of the CIA and principal adviser to the President.

This approach is completely contrary to the recommendations of the 9/11

Commission. It is completely contrary to the report of the congressional joint inquiry. It is completely contrary to numerous government and private sector reports over the past five decades.

The Hollings amendment gives the national intelligence coordinator the responsibility to manage the intelligence community but does not give that individual any additional authority to allow him to accomplish that task. The Hollings amendment also provides that except as otherwise provided by law, the national intelligence coordinator shall not be accountable to Congress regarding the performance of the responsibility of the coordinator. It is difficult to imagine why we would establish such a position with a list of legally defined responsibilities and authorities currently in the National Security Act of 1947, very important responsibilities and authorities which affected the security and the liberty of the American people, and then specifically provide that this individual is not accountable to Congress.

I am strongly opposed to this amendment. It guts the entire Collins-Lieberman bill. I urge my colleagues to defeat it.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to oppose the Hollings amendment. The Senator from South Carolina raised a question: Who cares about the country? Who is putting the country's interests and security first?

I assure him that Senator COLLINS and I, the members of our committee from both parties, care about the country, care about the security of the country, worry about the imminence of a terrorist attack, read the reports, came in in July and August and September, worked real hard to produce this proposal.

Talk about treating something casually, the amendment of the Senator from South Carolina would casually eliminate all our work and that of the 9/11 Commission and a series of commissions going back to 1947, when the National Security Act was adopted, recommending a strong national intelligence director.

What you are doing is creating a position that is cosmetic, that has no teeth to it, and will not be able to do what we need to do. It will bring us back to where we were before September 11, with no one in charge and, even worse, the appearance of someone in charge.

Witness after witness—people no one would treat casually, Secretaries of State, heads of the intelligence community, the past three or four of those people said: The worst thing you can do is to create a position and not give that position the authority to direct the intelligence community.

With all respect, that is what the amendment of the Senator from South Carolina is doing.

Secretary Powell said to us on September 13 of this year at a hearing:

> A [Director of Central Intelligence] was there before, but the DCI did not have that kind of authority. And in this town, it's budget authority that counts. Can you move the money? Can you set standards for people? The [national intelligence director]—

The one created in our bill—

> will have all of that, and so I think this is a far more powerful player. And that will help the State Department.

Stansfield Turner, CIA Director under President Carter, told us on August 16:

> I think it's empowering somebody to run a $40 billion a year . . . operation. And we just don't have that. And we need to have a CEO. So the real issue is just how much authority to give that CEO and still protect the Department of Defense. And I, as a military officer, would err on the side of giving it to the national intelligence director.

That is what we do.

With all respect, not casually, we have built in a lot of time and effort that this committee put in over a period of time on a totally bipartisan basis. This amendment would take us back to where we were when we were struck on September 11, 2001. I don't want to go back there, and that is why I oppose this amendment.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Well, two points quickly: I don't go back to 1947, but I go back to 1953 and 1954 under the Hoover Commission. And I would refer you to that report. They ask for a national intelligence coordinator. Allen Dulles would say—he was directing Central Intelligence—you can run the National Security Agency, you over at the Department of Defense, and you can direct and manage military intelligence and these different departments. But take those cold turkey facts of intelligence and information and have them coordinated—not superduper $40 billion. It sounds pretty on paper, but I can tell you right now, that is what was wrong with 9/11. The intelligence was directed, was managed.

Why do you think the head of the CIA hammered and slammed his fist on the desk of the President and said, Slam dunk, Mr. President, we got all the information you need on weapons of mass destruction, when he didn't even have an agent in downtown Baghdad. We were about to invade Iraq, and we had not an agent. That was the same director who was the staff director before Gulf Storm and Senator Bill Cohen and I came back to be briefed on Iraq and Baghdad, against Saddam. And George Tenet, the staff director at that time, said: Gentlemen, we don't have an agent in Baghdad. We don't have one in Iraq. We will have to call over to the Defense Department. Here, 11 years later, we still don't have somebody down there. Now we have operative agents and everything else trying to manage elections and what have you. So the idea is to coordinate impartial, objective intelligence facts, not manage intelligence.

Secondly, the Congress stays out of it, Senator COLLINS, most respectfully. The Congress stays out of the affairs of Condoleezza Rice. She is the National Security Adviser. We don't call her up willy-nilly before 15 different committees here on the Hill and say testify here and there. You don't want that. If you are the President, you want it coordinated subject to you. That is what you need. You don't call Karl Rove up here and ask him about political intelligence; you have him working around the clock. He has us Democrats on the run.

I want the same kind of job done in domestic intelligence, foreign intelligence, and military intelligence. I want it coordinated for the President so the buck doesn't stop here because the dots were not joined. Now we are about to join the dots in this amendment. Of all people, they say let's don't join them, let's just manage; and we have $40 billion or $30 billion, whatever it is, and we are going to manage indirectly and we are going to screw up the Defense Department, the FBI, civil rights, and everything else, in the head-on rush we have here this afternoon.

I yield back the remainder of my time.

Ms. COLLINS. Mr. President, I move to table the Hollings amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. KYL), and the Senator from Arizona (Mr. MCCAIN) are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Georgia (Mr. MILLER), and the Senator from Florida (Mr. NELSON), are necessarily absent.

The PRESIDING OFFICER (Mr. CHAFEE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 82, nays 7, as follows:

[Rollcall Vote No. 193 Leg.]

YEAS—82

Alexander	Chambliss	Durbin
Allard	Clinton	Ensign
Allen	Coleman	Enzi
Baucus	Collins	Feingold
Bayh	Conrad	Feinstein
Bennett	Cornyn	Fitzgerald
Bingaman	Corzine	Frist
Bond	Craig	Graham (SC)
Breaux	Crapo	Grassley
Brownback	Daschle	Gregg
Bunning	Dayton	Hagel
Campbell	DeWine	Harkin
Cantwell	Dodd	Hatch
Carper	Dole	Hutchison
Chafee	Dorgan	Inhofe

Jeffords	Mikulski	Shelby
Johnson	Murkowski	Smith
Kennedy	Murray	Snowe
Kohl	Nelson (NE)	Specter
Landrieu	Nickles	Stabenow
Lautenberg	Pryor	Sununu
Leahy	Reed	Talent
Levin	Reid	Thomas
Lieberman	Roberts	Voinovich
Lincoln	Rockefeller	Warner
Lott	Santorum	Wyden
Lugar	Sarbanes	
McConnell	Schumer	

NAYS—7

Burns	Hollings	Stevens
Byrd	Inouye	
Cochran	Sessions	

NOT VOTING—11

Akaka	Edwards	McCain
Biden	Graham (FL)	Miller
Boxer	Kerry	Nelson (FL)
Domenici	Kyl	

The motion was agreed to.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Maine.

AMENDMENT NO. 3802

Ms. COLLINS. Mr. President, I move to table the Lautenberg amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. KYL), the Senator from Arizona (Mr. MCCAIN) and the Senator from Kansas (Mr. BROWNBACK) are necessarily absent.

I further announce that if present and voting the Senator from Kansas (Mr. BROWNBACK) would vote ''yea.''

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from Illinois (Mr. DURBIN), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY) and the Senator from Florida (Mr. NELSON) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 41, as follows:

[Rollcall Vote No. 194 Leg.]

YEAS—47

Alexander	DeWine	McConnell
Allard	Dole	Miller
Allen	Ensign	Murkowski
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Bunning	Frist	Santorum
Burns	Graham (SC)	Sessions
Campbell	Grassley	Shelby
Chafee	Gregg	Smith
Chambliss	Hagel	Stevens
Cochran	Hatch	Sununu
Coleman	Hutchison	Talent
Collins	Inhofe	Thomas
Cornyn	Lieberman	Voinovich
Craig	Lott	Warner
Crapo	Lugar	

NAYS—41

Baucus	Feingold	Mikulski
Bayh	Feinstein	Murray
Bingaman	Harkin	Nelson (NE)
Breaux	Hollings	Pryor
Byrd	Inouye	Reed
Cantwell	Jeffords	Reid
Carper	Johnson	Rockefeller
Clinton	Kennedy	Sarbanes
Conrad	Kohl	Schumer
Corzine	Landrieu	Snowe
Daschle	Lautenberg	Specter
Dayton	Leahy	Stabenow
Dodd	Levin	Wyden
Dorgan	Lincoln	

NOT VOTING—12

Akaka	Domenici	Kerry
Biden	Durbin	Kyl
Boxer	Edwards	McCain
Brownback	Graham (FL)	Nelson (FL)

The motion was agreed to.

Ms. COLLINS. I move to reconsider the vote.

Mr. SANTORUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 3819

Mr. ENSIGN. Mr. President, I ask unanimous consent to lay the pending business aside and call up amendment No. 3819.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN], for himself, Mr. KYL, Mr. CHAMBLISS, Mr. CORNYN, Mr. GRASSLEY, and Mr. SESSIONS, proposes an amendment numbered 3819.

Mr. ENSIGN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require the Secretary of State to increase the number of consular officers, clarify the responsibilities and functions of consular officers, and require the Secretary of Homeland Security to increase the number of border patrol agents and customs enforcement investigators)

At the end, add the following:

TITLE IV—OTHER MATTERS

SEC. 401. RESPONSIBILITIES AND FUNCTIONS OF CONSULAR OFFICERS.

(a) INCREASED NUMBER OF CONSULAR OFFICERS.—The Secretary of State, in each of fiscal years 2006 through 2009, may increase by 150 the number of positions for consular officers above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) LIMITATION ON USE OF FOREIGN NATIONALS FOR VISA SCREENING.—

(1) IMMIGRANT VISAS.—Subsection (b) of section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following: ''All immigrant visa applications shall be reviewed and adjudicated by a consular officer.''.

(2) NONIMMIGRANT VISAS.—Subsection (d) of such section is amended by adding at the end the following: ''All nonimmigrant visa applications shall be reviewed and adjudicated by a consular officer.''.

(c) TRAINING FOR CONSULAR OFFICERS IN DETECTION OF FRAUDULENT DOCUMENTS.—Section 305(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1734(a)) is amended by adding at the end the following: ''As part of the consular training provided to such officers by the Secretary of State, such officers shall also receive training in detecting fraudulent documents and general document forensics and shall be required as part of such training to work with immigration officers conducting inspections of applicants for admission into the United States at ports of entry.''.

(d) ASSIGNMENT OF ANTI-FRAUD SPECIALISTS.—

(1) SURVEY REGARDING DOCUMENT FRAUD.—The Secretary of State, in coordination with the Secretary of Homeland Security, shall conduct a survey of each diplomatic and consular post at which visas are issued to assess the extent to which fraudulent documents are presented by visa applicants to consular officers at such posts.

(2) PLACEMENT OF SPECIALIST.—Not later than July 31, 2005, the Secretary of State shall, in coordination with the Secretary of Homeland Security, identify 100 of such posts that experience the greatest frequency of presentation of fraudulent documents by visa applicants. The Secretary of State shall place in each such post at least one full-time anti-fraud specialist employed by the Department of State to assist the consular officers at each such post in the detection of such fraud.

SEC. 402. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

The Secretary of Homeland Security, in each of fiscal years 2006 through 2010, shall increase by not less than 2,000 the number of positions for full-time active duty border patrol agents within the Department of Homeland Security above the number of such positions for which funds were allotted for the preceding fiscal year.

SEC. 403. INCREASE IN FULL-TIME IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.

The Secretary of Homeland Security, in each of fiscal years 2006 through 2010, shall increase by not less than 800 the number of positions for full-time active duty investigators within the Department of Homeland Security investigating violations of immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) above the number of such positions for which funds were allotted for the preceding fiscal year. At least half of these additional investigators shall be designated to investigate potential violations of section 274A of the Immigration and Nationality Act (8 U.S.C 25 1324a). Each State shall be allotted at least 3 of these additional investigators.

Mr. ENSIGN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENT NO. 3815

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the pending amendment be laid aside and call up amendment No. 3815, which is at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER], for himself, Mrs. HUTCHISON, Mr. ROBERTS, and Ms. MIKULSKI, proposes an amendment numbered 3815.

The amendment is as follows:

(Purpose: To improve and provide for the review of intelligence estimate and products)

On page 17, between lines 19 and 20, insert the following:

(11) direct an element or elements of the intelligence community to conduct competitive analysis of analytic products, particularly products having national importance;

(12) implement policies and procedures to encourage sound analytic methods and tradecraft throughout the elements of the intelligence community and to ensure that the elements of the intelligence community regularly conduct competitive analysis of analytic products, whether such products are produced by or disseminated to such elements;

On page 17, line 20, strike ''(11)'' and insert ''(13)''.

On page 17, line 22, strike ''(12)'' and insert ''(14)''.

On page 18, line 1, strike ''(13)'' and insert ''(15)''.

On page 18, line 4, strike ''(14)'' and insert ''(16)''.

On page 18, line 7, strike ''(15)'' and insert ''(17)''.

On page 18, line 14, strike ''(16)'' and insert ''(18)''.

On page 18, line 17, strike ''(17)'' and insert ''(19)''.

On page 18, line 20, strike ''(18)'' and insert ''(20)''.

On page 19, line 5, strike ''(19)'' and insert ''(21)''.

On page 19, line 7, strike ''(20)'' and insert ''(22)''.

On page 31, line 1, strike ''112(a)(16)'' and insert ''112(a)(18)''.

On page 49, line 13, insert '', and each other National Intelligence Council product'' after ''paragraph (1)''.

On page 49, line 15, insert ''or product'' after ''estimate''.

On page 49, line 17, insert ''or product'' after ''estimate''.

On page 49, line 19, insert ''or product'' after ''estimate''.

On page 49, line 22, strike ''such estimate and such estimate'' and insert ''such estimate or product and such estimate or product, as the case may be''.

On page 49, line 24, insert ''or product'' after ''estimate''.

On page 51, between lines 5 and 6, insert the following:

(i) NATIONAL INTELLIGENCE COUNCIL PRODUCT.—For purposes of this section, the term ''National Intelligence Council product'' includes a National Intelligence Estimate and any other intelligence community assessment that sets forth the judgment of the intelligence community as a whole on a matter covered by such product.

On page 56, line 20, strike ''(15) and (16)'' and insert ''(17) and (18)''.

On page 87, line 16, strike ''and'' at the end.

On page 87, between lines 16 and 17, insert the following:

(D) conduct, or recomend to the National Intelligence Director to direct an element or elements of the intelligence community to conduct, competitive analyses of intelligence products relating to suspected terrorists, their organizations, and their capabilities, plans, and intentions, particularly products having national importance;

(E) implement policies and procedures to encourage coordination by all elements of the intelligence community that conduct analysis of intelligence regarding terrorism of all Directorate products of national importance and, as appropriate, other products, before their final dissemination; and

On page 87, line 17, strike ''(D)'' and insert ''(F)''.

On page 96, line 16, strike ''foreign''.

On page 100, between lines 3 and 4, insert the following:

SEC. 145. OFFICE OF ALTERNATIVE ANALYSIS.

(a) OFFICE OF ALTERNATIVE ANALYSIS.—There is within the National Intelligence Authority an Office of Alternative Analysis.

(b) HEAD OF OFFICE.—The National Intelligence Director shall appoint the head of the Office of Alternative Analysis.

(c) INDEPENDENCE OF OFFICE.—The National Intelligence Director shall take appropriate actions to ensure the independence of the Office of Alternative Analysis in its activities under this section.

(d) FUNCTION OF OFFICE.—(1) The Office of Alternative Analysis shall subject each National Intelligence Estimate (NIE), before the completion of such estimate, to a thorough examination of all facts, assumptions, analytic methods, and judgments utilized in or underlying any analysis, estimation, plan, evaluation, or recommendation contained in such estimate.

(2)(A) The Office may also subject any other intelligence estimate, brief, survey, assessment, or report designated by the National Intelligence Director to a thorough examination as described in paragraph (1).

(B) Not later than 180 days after the date of the enactment of this Act, the Director shall submit to the congressional intelligence committees a report on the estimates, briefs, surveys, assessments or reports, if any, designated by the Director under subparagraph (A).

(3)(A) The purpose of an evaluation of an estimate or document under this subsection shall be to provide an independent analysis of any underlying facts, assumptions, and recommendations contained in such estimate or document and to present alternative conclusions, if any, arising from such facts or assumptions or with respect to such recommendations.

(B) In order to meet the purpose set forth in subparagraph (A), the Office shall, unless otherwise directed by the President, have access to all analytic products, field reports, and raw intelligence of any element of the intelligence community and such other reports and information as the Director considers appropriate.

(4) The evaluation of an estimate or document under this subsection shall be known as a ''OAA analysis'' of such estimate or document.

(5) Each estimate or document covered by an evaluation under this subsection shall include an appendix that contains the findings and conclusions of the Office with respect to the estimate or document, as the case may be, based upon the evaluation of the estimate or document, as the case may be, by the Office under this subsection.

(6) The results of each evaluation of an estimate or document under this subsection shall be submitted to the congressional intelligence committees.

On page 194, line 9, strike ''112(a)(11)'' and insert ''112(a)(14)''.

On page 195, line 16, strike ''112(a)(11)'' and insert ''112(a)(14)''.

On page 195, line 23, strike ''112(a)(11)'' and insert ''112(a)(14)''.

On page 196, line 7, strike ''112(a)(11)'' and insert ''112(a)(14)''.

Mr. ROCKEFELLER. Mr. President, I rise to offer, along with Senator HUTCHISON, and also Senator ROBERTS and Senator MIKULSKI, this amendment. I will explain it in further detail. But the main objective of our amendment is to institutionalize much needed reform, based upon our recent experience, which is, namely, the practice of alternative analysis, or, as we say, ''red teaming,'' in the production of significant intelligence assessments.

As to this Rockefeller-Hutchison amendment, I am very pleased to say I believe the distinguished chair and ranking member of the Committee on Governmental Affairs have indicated their support for this amendment—that is my hope—and that, therefore, the amendment will be accepted by them and supported, obviously, by our colleagues without the need for a vote.

Section 123 of the Collins-Lieberman bill provides for placement of the National Intelligence Council within the office of the national intelligence director. The Council is currently under the Director of Central Intelligence.

As the Senate Intelligence Committee report on prewar intelligence on Iraq explains, National Intelligence Estimates are the intelligence community's most authoritative written judgments—they are the golden standard—on national security issues.

The Collins-Lieberman bill reforms the work of the National Intelligence Council, based in significant part on the findings of the Intelligence Committee's Iraq review.

Importantly, it requires the National Intelligence Estimates to distinguish between the intelligence underlying estimates and the judgments of analysts about the intelligence itself. The bill also requires that the estimates describe the quality and reliability of the intelligence underlying the analytical judgments, present and explain alternative conclusions, and characterize any uncertainties. Our amendment builds upon this important reform in two ways.

First, our amendment applies these reforms not only to National Intelligence Estimates, to which they are currently limited, but also to other analytical products of the National Intelligence Council, which is the senior group made up of intelligence people and people from public and private sectors—the senior group.

Second, our amendment will institutionalize a method of ensuring that an alternative analysis is used in the preparation of National Intelligence Estimates and is available to policymakers reviewing the estimates so they get the full picture.

It does this by providing for the establishment within the national intelligence authority of an office of alternative analysis, whose head will be appointed by the national intelligence director. The national intelligence director is required to ensure the independence of the office of alternative analysis. The unit is directed to review every National Intelligence Estimate, and any other intelligence report designated pursuant to guidelines established by the director.

The important purpose of the Rockefeller-Hutchison bill is the following: To thoroughly examine all facts, all assumptions, analytical methods, and judgments used in the estimate—in other words, the ability to question, to

be a contrarian, to dig deeper, to ask questions that otherwise and heretofore have not been asked. To make sure that the alternative analysis is available to policymakers, our amendment also requires that each National Intelligence Estimate or other product that is subject to an alternative analysis include the alternative analysis in its appendix.

While our Intelligence Committee's Iraq review did not include committee recommendations, I can assure our colleagues of the widespread support within our committee of the importance of alternative analysis or ''red teaming'' as it is called informally. It remains important for the body of the National Intelligence Estimate to state dissent from within the intelligence community. But beyond that, it is vital for a dedicated group of analysts to examine all aspects of an estimate—data, assumptions, analytic methods, and judgments.

The ultimate objective is to enable the National Intelligence Council personnel, the national intelligence director, and the executive and legislative branch policymakers to appraise the intelligence community's analysis on matters central to our national security.

I would like to express my special appreciation to Senator HUTCHISON who has been working on this for a long time and had a similar amendment. Our staffs worked flawlessly together. Senator ROBERTS, chairman of the full Intelligence Committee, also had a related amendment making it clear that the national intelligence director is responsible for ensuring competitive analysis throughout the intelligence community. I thank both Senators for their contribution.

I also wish to express my appreciation to Congresswoman JANE HARMAN for developing in the House an alternative analysis proposal from which we have benefited preparing this amendment.

I hope the Rockefeller-Hutchison amendment is acceptable.

I yield to the distinguished Senator from the State of Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank Senator ROCKEFELLER for working with me on this amendment. We had very similar amendments that both of us filed independently and our staffs got together with the distinguished chairman of the Governmental Affairs Committee, Senator COLLINS, and the ranking member, Senator LIEBERMAN, and I think we have come up with a comprehensive approach to competitive analysis. It is something the majority of people who have served on the Intelligence Committee know is desperately needed. Particularly as we are consolidating agencies and trying to make our agencies mesh better together. It is very important that we keep the competition of ideas, challenge assumptions, and ensure a forum is provided for alternative ideas and recommendations. The end result is an office which will perform what many refer to as ''red teaming'' that is so important to an effective intelligence network.

When Dr. Henry Kissinger testified before the Appropriations Committee, of which I am a member, he said, particularly with the consolidation of intelligence oversight, you have to make sure that you have some way of finding out if there were different conclusions reached with the same or even other extraneous material.

We had the challenge of making sure that the competition of ideas was not lost. I believe the Rockefeller-Hutchison amendment does exactly that.

I thank the Senator from West Virginia, Mr. ROCKEFELLER. I appreciate Senator ROBERTS also working with us on this, and Senator MIKULSKI. Senator KYL was interested in this as well. Everyone came together, and I think the result will be an office which is able to quickly adapt to terrorist threats. It will be an office of alternative intelligence analysis that will be able to challenge the assumptions and make sure that our highest policymakers, including the President of the United States, have access to this alternative analysis so that he will be able to make the very best decisions.

I thank the distinguished chairman and ranking member of the committee. I thank Senator ROCKEFELLER. I think we have a wonderful approach, a wonderful amendment that will add greatly to the bill and the goal we are all trying to reach of a quality intelligence product with which our President and our Secretary of State, Secretary of Defense can make decisions.

I yield the floor and urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I commend Senator ROCKEFELLER and Senator HUTCHISON for their amendment to improve the quality of intelligence analysis by creating a red team. Both of them talked to me very early on about the need for this improvement in our bill. Senator ROBERTS and Senator MIKULSKI have also been very interested in this issue. I am very pleased they have been able to come together. They have produced an excellent amendment that will improve the quality of intelligence analysis.

I also urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank our colleagues from West Virginia, Texas, and Kansas for this amendment. It has been a priority of our focus, Senator COLLINS and mine and the committee, to make sure that intelligence is not only coordinated by the national intelligence director and the dots are connected, but that intelligence be high quality and objective and subjected to the competition of ideas. This amendment makes that basic approach even stronger.

I thank our friends for all they have done. Senator ROCKEFELLER, again, if I haven't said it on the floor, has been a tremendous contributor to our effort. I thank him for all the support he has given.

The PRESIDING OFFICER. Is there further debate on amendment No. 3815?

If not, without objection, the amendment is agreed to.

The amendment (No. 3815) was agreed to.

AMENDMENT NO. 3942

Mr. LIEBERMAN. Mr. President, I have an amendment which I send to the desk at this time.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

Without objection, the amendment is in order, and the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself, Mr. MCCAIN, and Mr. BAYH, proposes an amendment numbered 3942.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. LIEBERMAN. Mr. President, I rise with Senator MCCAIN to offer this amendment that takes the fight against terrorism right to where they live—right to their front lines.

This amendment says we will identify terrorist havens and—working with our allies—we will break them up and keep them on the run.

They will have no peace, no rest, no time to settle in and plot destruction.

This amendment also says we will attack and cut their most vital supply line—the disaffected young who serve as recruits.

We will do this by showing the Muslim world—especially the young—that we believe in and can help them achieve their dreams of living in a 21st century world that still respects the tenets of Islam.

These goals are a challenge. But if we succeed—and we must—this generation will see the calls to jihad fade and the global chorus celebrating our shared humanity and peaceful futures grow.

Let us start with the challenge of eliminating terrorist sanctuaries and their sense of safety.

As the 9/11 Commission reported, terrorist cells stretch from Afghanistan right into the major cities of Europe. And as 9/11 proved, into the United States as well.

To fight and win this war, we need to identify these pockets of terrorist sanctuaries and, working with other nations, develop strategies that in the words of the Commission:

Keep possible terrorists insecure and on the run using all instruments of national power.

The Commission did identify specific countries where we should concentrate our immediate efforts and I would like to focus on two of them.

One is Afghanistan. This almost goes without saying.

This is where al-Qaida trained its killers. This is where the 9/11 plot was hatched. This is where the tyrannical Taliban rulers enslaved an entire nation except for those who plotted global destruction.

This amendment says that Congress needs to authorize the aid and support necessary for the entire Afghan nation to finally realize its freedom, which is so close but still so fragile.

At this stage, half measures in Afghanistan are the same as throwing a five-foot rope to someone drowning 10 feet away. We can't let that happen.

Another country identified by the Commission was Pakistan.

In the immediate aftermath of 9/11, the Pakistani government made the choice to stand with us in the fight against terrorism at great risk to the stability of the nation and the lives of its leaders.

We have no choice but to stand by them.

Pakistan may be an imperfect ally at times. But they have been a loyal ally—committing troops on their own frontiers to hunt down al-Qaida fighters and denying them safe bases.

This amendment says we not only need to maintain our current financial support of Pakistan, but let the Pakistanis know we are making a long-term commitment to the future of their nation.

They need to know they have our support for as long as they remain true to their goals of defeating domestic extremists, promoting a civil society and preserving the hope of Pakistani democracy that can become another beacon for the Muslin world in the years to come.

Just imagine if one of the outcomes of the global war against terrorism was stable democracies in Afghanistan, Pakistan, and Iraq.

This goal is within our grasp. It is within our means. Only our vision can fail us now.

And vision—long-term vision—is what we will need to fulfill the second part of the strategy outlined in this amendment.

We must win over the minds of the Muslim world, especially the young, by reaching out and talking to them in ways we never have before.

Let me pose a question the 9/11 Commission asked.

How can a man hiding in a cave be communicating more effectively with the Muslim world than the nation that invented mass media and the Internet?

The 9/11 Commission report said:

To Muslim parents, terrorists like bin Laden have nothing to offer their children but visions of violence and death.

America and its friends have a crucial advantage. We can offer these parents a vision that gives their children a better future.

But it doesn't matter if we don't effectively communicate that vision.

This amendment says we must improve our mass communications efforts with the Muslim world through sustained and well-funded broadcast efforts on satellite television and radio.

That is a good start. But this can't just be an air war. Minds are won over more by actions than words.

And this amendment looks to engage the minds of Muslim youth by rebuilding scholarship, student exchange and library programs.

It also calls for establishing an International Youth Opportunity Fund—that other nations would be asked to contribute to—that would help build and operate primary and secondary schools in Muslim nations committed to public education.

Why do this? Because most of these nations are too poor to pay for public education.

Instead, students attend Madrassahs that far too often are classrooms where hatred is taught and bigotry affirmed.

Consider this: In Karachi, Pakistan, 200,000 students attend Madrassahs; 200,000 in one city alone. Multiply that over the entire Muslim world. We can't possibly keep up with those numbers year after year.

The challenges ahead of us are daunting. But with this amendment we say that we are ready and willing to go to the front lines of the terrorist world and take away the sanctuaries where they hide—and take back the minds that they steal.

This is another in a series of amendments that Senator MCCAIN and I have offered to carry out the recommendations of the 9/11 Commission. This one has to do with recommendations they have made with regard to foreign policy. It has been cleared on both sides. I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

If not, without objection, the amendment is agreed to.

The amendment (No. 3942) was agreed to.

Mr. LIEBERMAN. I thank the Chair.

AMENDMENT NO. 3781, AS MODIFIED

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask the Senate to turn to the consideration of amendment No. 3781 which is pending at the desk.

The PRESIDING OFFICER. Without objection, it will be the pending business.

Mr. WARNER. Mr. President, I send to the desk a modification of the amendment.

The PRESIDING OFFICER. Is there objection to the modification or has the modification been cleared by the leader?

Mr. WARNER. My understanding is the modification is accepted by the managers.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 119, strike lines 16 through 18 and insert: ''The National Intelligence Director shall convene regular meetings of the Joint Intelligence Community Council.''.

''(e) ADVICE AND OPINIONS OF MEMBERS OTHER THAN CHAIRMAN.—(1) A member of the Joint Intelligence Community Council (other than the Chairman) may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the National Intelligence Director to the President or the National Security Council, in the role of the Chairman as Chairman of the Joint Intelligence Community Council. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time the Chairman presents the advice of the Chairman to the President or the National Security Council, as the case may be.

''(2) The Chairman shall establish procedures to ensure that the presentation of the advice of the Chairman to the President or the National Security Council is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the Council.

''(f) RECOMMENDATIONS TO CONGRESS.—Any member of the Joint Intelligence Community Council may make such recommendations to Congress relating to the intelligence community as such member considers appropriate.''.

Mr. WARNER. Let me explain the modification. The original text required that the national intelligence director, in his capacity as chairman of the to-be-created joint intelligence community council that was part of the President's message, originally I had it that he would have monthly meetings of the council or meetings upon the request of the members of the council. But I think it more appropriate that that be modified, which has now been done, such that the amendment will read: Strike that paragraph and in its place put the national intelligence director shall convene regular meetings of the joint intelligence community council. And then I will address the balance of the amendment.

It has been my concern, and I think from a fair reading of the 9/11 Commission report, that we have to keep the views of those individuals primarily responsible for the collection, dissemination, and analysis of intelligence, those individuals who are on, incidentally, the council, who are your principal Cabinet officers—and that is the Secretaries of State, Defense, Homeland Security, Energy, Treasury, and the Attorney General—those individuals from time to time could develop positions regarding an intelligence issue which are at variance with the national intelligence director.

That collection of Cabinet officers is a vast array of individuals who will be working on issues of intelligence, collaborating with other agencies. From time to time, I am of the opinion that one or more of the members of the council might well have opinions that are at variance with the national intelligence director, and that when the national intelligence director goes to brief the President, there should be an obligation in law—I feel that strongly

about it—that those opinions at variance with the national intelligence director must be given to the President and such others who may be in attendance at the time the national intelligence director presents his or, as the case may be, her viewpoint.

The strength of our intelligence system has to be predicated on competition of thinking. I have always liked the word that the 9/11 Commission seized upon, ''imagination.'' It seems to me that type of competition and imagination is likely to develop better if we have the certainty that the viewpoints the President receives from the national intelligence director are not held by one or more of the members of that council, but that the President will receive the benefit of the other viewpoints. I think that system has to be made and put into law. It is so vitally important because, for example, as a member of the Intelligence Committee, when we examined, in extensive hearings conducted by Chairman ROBERTS and Vice Chairman ROCKEFELLER, the issue of weapons of mass destruction—and the conclusion that is being reached is that there was a substantial variance between the intelligence opinions and what is evolving as the actual, factual situation—it appears that the caveats were not given the proper emphasis by people, from the President on down, as they reviewed the work of the various intelligence-collecting agencies.

For example, the CIA had its position. From time to time, the Department of Energy had opinions at variance with the CIA. At times, there were opinions of the DIA, the Defense Intelligence Agency, which were at variance with the opinions of other departments and agencies. I think it is essential. Those caveats, in the case of weapons of mass destruction—I will use the phrase that they were not given the emphasis that was needed. That is a whole chapter. It is all laid out in a very extensive report developed by the Intelligence Committee, which is now public record.

This amendment, hopefully, will go a long way to ensure that diverse opinions will be given to our President. That is the thrust of it. It is patterned after the Goldwater-Nichols Act—a piece of legislation on which I was privileged to have a very active role, enacted by the Congress in the late 1980s—which organized some elements of the Department of Defense and, most specifically, the joint staff.

Mr. President, the act said that when the Chairman of the Joint Staff meets with the President of the United States, if there were members of the Joint Chiefs—i.e., Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps—who held opinions at variance with the Chairman, the Chairman was obligated under law to share those opinions with the President and such others as the Chairman of the Joint Chiefs of Staff was addressing. That has been a very effective piece of legislation.

This amendment is patterned almost verbatim after, and consistent with, the Goldwater-Nichols Act. Frequently, the 9/11 Commission, quite properly, paid a great deal of respect to that piece of legislation.

In concluding my remarks—and I have worked on this, but I have not found a solution yet—this Senator is concerned about the future of the Central Intelligence Agency as an organization and the role of the head of that agency—now our former distinguished former colleague, Porter Goss. Therein resides an enormous wealth of professional people in all the nations of the world, in one way or another, who have come up through the ranks, training and taking risks, often commensurate with the risks the men and women of the Armed Forces take, often with long separations from their families in some of the more difficult posts in the world. All of that infrastructure is going to remain under the Director of the CIA, who will now report no longer directly to the President but to the concept of the new national intelligence director. That has been decided.

I may eventually come up with the solution. I am trying to figure out how, if the Director of the CIA has a view that is held strongly, and it is at variance with the viewpoint of the national intelligence director, how that view can be properly emphasized and given to the President and such other persons as the NID will be addressing.

Mr. STEVENS. Will the Senator from Virginia yield for a question?

Mr. WARNER. Yes.

Mr. STEVENS. Mr. President, I am a cosponsor of this amendment. As I listen to the Senator from Virginia, I wonder, I don't see anything in this bill that allows the separate agencies to communicate with the Congress, as they have in the past, such as the CIA and the NRO. They have all come directly to us. Would your amendment preserve the right of the people who would disagree with the NID to communicate with the Congress, as well as the Executive?

Mr. WARNER. Yes. My last section, recommendations to Congress, says:

> Any member of the Joint Intelligence Community Council may make such recommendation to Congress relating to the intelligence community as such member considers appropriate.

So in this particular law is specific authority for those Cabinet officers and others to come directly to the Congress. I am glad my colleague brought that up.

Mr. STEVENS. Will the Senator yield for another question?

Mr. WARNER. Yes.

Mr. STEVENS. The Senator from Virginia and I both served for a while in the executive branch. We know Cabinet officers often put down in the law about who can contact Congress on what. I don't know if it happened on your watch. It happened on mine.

Mr. WARNER. It happened on mine when I was in the Department of Defense.

Mr. STEVENS. Some people don't believe this language is necessary. Would the Senator agree if there is going to be the right to communicate, to go up the line toward the President or to the Congress, it has to be in the law? People's rights have to be protected to contact us?

(Mr. CORNYN assumed the Chair.)

Mr. WARNER. Mr. President, I think it does, and that is why I have put in this paragraph, which is very explicit. This paragraph relates to the members of the Joint Intelligence Community Council, which I enumerated before as the several Cabinet officers—Secretaries of State, Defense, Homeland Security, Energy, and the Attorney General.

Mr. STEVENS. Mr. President, if the Senator will yield once more, I sort of feel we have to put some meat on the bones of this commission a little bit as we go along to allow the Secretaries of the whole community to participate in the process—budget, management, and oversight. Will not the amendment of the Senator from Virginia strengthen oversight by giving the people involved in oversight the chance to hear the dissenting opinions as well as the opinion of the NID?

Mr. WARNER. The Senator is correct, Mr. President.

Mr. STEVENS. I thank the Senator.

Mr. WARNER. The Senator is correct.

I yield the floor for a moment for the purpose of receiving the distinguished chairman's views on this matter.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, let me begin by saying that I very much appreciate the distinguished Senator from Virginia, the chairman of the Senate Armed Services Committee, working with Senator LIEBERMAN and me to modify his amendment so that it is consistent with the goals of our legislation.

The JICC was suggested by the White House when we drafted our bill. I view it as an important component of the Collins-Lieberman bill because it provides a forum for the national intelligence director to solicit the views of and to receive advice from key Cabinet members on a wide variety of issues.

It is important for the members of the JICC—the Secretaries of State, Defense, Homeland Security, and the Attorney General, and other Departments, Treasury as well—to see the council as a way to communicate their views freely to the NID to help the NID reach the right decisions and to be a forum for a wide variety of issues.

It is also important for the NID to remain firmly in control as chairman of the council, and I believe the modification makes clear that it is the NID who is the chairman and who will regularly convene this council.

Senator WARNER's amendment, as modified, meets both those goals. It

strengthens the bill. I can speak on behalf of the ranking member of the committee in urging its adoption. I thank the Senator again for working with us.

Mr. WARNER. Mr. President, I thank my distinguished friend and colleague, the manager. Might I solicit her views on the concern I have—and I have not figured out how to do it. The views of the Secretaries of State and Defense are very important because they have their own internal intelligence functions and they are subjected to this, particularly those two Cabinet officers, on a daily basis.

The Director of the CIA will report to the national intelligence director. The national intelligence director—I do not know quite what the infrastructure will be. It is conceived, as the Senator from Maine said earlier today and several times, that she is not creating a whole new department. But the CIA Director will remain in charge of what I say is the most magnificent reservoir of professionals to be found anywhere in the world. I cannot give, because of classification, the numbers, but it is in the tens of thousands of these individuals all over the world. The CIA Director has instantaneous contact with them and personal association as he travels—or she, as the case may be—worldwide. It is a network of these intelligence people who have knowledge that comes back up to the Director. He is hands on. The NID will not have that hands-on experience, cannot possibly because he has so much to manage.

One of the reasons for this legislation is to split off the functions of the former head of the CIA, the Director of the whole Central Intelligence, and to give those responsibilities, as it relates to the national collection of the intelligence program, portions of it to the NID to operate now, leaving the Director of the CIA to manage primarily that agency.

Supposing the Director of the CIA has a strongly held opinion and viewpoint which is at variance with the national intelligence director, but when the national intelligence director goes in to brief the President and the Security Council, in all likelihood the Director of the CIA will be at Langley. I am not certain how that varying opinion is given to the President and the other structure at the White House and the other Cabinet officers who may be present—for instance, at the meetings of the council, how that opinion can be expressed. I have not thought of it. Maybe the chairman and I can work on this in the few days remaining on this bill. But I am concerned about it.

Ms. COLLINS. Mr. President, I would be happy to consult further with the Senator about his concern in this area. I note that the 9/11 Commission and numerous other commissions have determined that the CIA Director has too many roles right now; that he has three roles. He is the principal adviser to the President for intelligence, he is the head of the CIA, and he is the manager of the intelligence community. There is widespread consensus that is too much for the CIA Director to have, so our legislation alters those roles.

The CIA Director would run the CIA. The national intelligence director would not run the day-to-day operations of the CIA, but the national intelligence director would become the principal adviser to the President on intelligence. The national intelligence director would also be the manager of the national intelligence programs. So we have defined those roles in that manner, but we have not altered the fact that the CIA Director would still be a Presidential appointee, he would still be confirmed by the Senate, and he would still have lots of access, in my view, just as Cabinet members are always going to be able to get their views to the President.

I think the structure the Senator has improved, the joint intelligence community council, strengthens that flow of communication, but that structure is there. I do not believe that is going to be a problem.

I also point out to the Senator that the Senator made an excellent point earlier when he was talking about the need for competitive analysis for a variety of viewpoints to be presented to the President and that we did not see that work as well as it should have in recent cases.

We have put in extensive language in our bill due to amendments authored by Senator LEVIN, as well as the work Senator LIEBERMAN and I and others have done, that makes very clear, for example, that when a National Intelligence Estimate is produced, that it has to highlight dissenting views. That does not happen now sufficiently. Often those dissenting views are hidden away in a footnote when they really should be up front for us to be aware that there are dissenting views and who has those dissenting views.

Another example: We require these estimates to have a confidence level attached to the prevailing view so we will know how much support that prevailing view has.

So throughout our bill there are requirements to make sure that dissenting views are heard. Indeed, the Rockefeller-Hutchinson amendment we just adopted also strengthens that by having the office of alternative analysis. So I think there are numerous safeguards to make sure that all voices are heard; that competitive analysis is strengthened; that dissenting views are highlighted.

Mr. WARNER. Mr. President, all along I have expressed complete concurrence in what the Senator has done in this bill to the extent the Senator and I have looked at various sections. I may have reservations about others and tomorrow I hope to engage with the Senator on a number of amendments.

As to the basic charter that the Senator outlined in her opening remarks, I am not going to at this time in any way indicate an objection. I just wanted to focus on this one individual, the CIA Director, who, as the Senator knows, under previous Presidents, and certainly President Bush, was in his office one way or another almost every day of the week working with him.

The CIA Director had this—I understand all of these responsibilities may be too much for one individual and I am not arguing about shifting that at the moment, but I am talking about this magnificent collection of individuals—and he is the boss—who take all of these risks together, collect and analyze and develop opinions and it comes up to him and he may form a view which is totally opposite to the NID, and the NID goes into the President. I have guaranteed here that the Cabinet officers have the right to have their views presented simultaneously, one view after another, to the President, but I am not satisfied yet that the views of the CIA Director, which could well be different than the analysis and conclusion of the NID, would be given to the President with the weight and sufficiency I think they merit.

Ms. COLLINS. I am certainly open to working with the distinguished Senator to address his concerns. I believe it would work similarly to how the views of the head of the NSA, the NRO, the NGA, and DIA get to the President now through the Secretary of Defense.

Under our bill, the CIA Director clearly reports to the NID, much as the head of the NSA reports to the Secretary of Defense. Nothing prevents the CIA Director or the NSA Director from going to the President, but we have changed the structure.

We are making the NID the principal adviser to the President for intelligence, but I cannot conceive of a situation where the NID would not be relying very heavily on the CIA Director for the advice that he is giving to the President. It would be foolhardy for him not to.

Mr. WARNER. I see the Senator's point. The Senator put out a very clear example of the NRO, the NSA, the old mapping agency, they report to the SECDEF—we have just given the SECDEF the right to have his views presented simultaneously if they are at variance with the NID at the time he meets with the President. That is not present in the Central Intelligence Agency. If those views vary, there is no obligation under the law to see that they are presented simultaneously.

The Senator says she cannot envision how they would not be. Well, it depends on the human factor, that these two individuals would get along and have a mutual respect. I can remember in my first term on the Intelligence Committee, there was a very colorful Director of the CIA, Mr. Casey. He was an extraordinary man. I remember he used to come in and testify before the committee. All the members would lean up like this because they could not understand him, to be honest. He spoke in a rather unusual way. I think he did that

to get through his testimony pretty quickly and get out of that hearing room. I am trying to put a note of humor into some serious things, but let us hope the Senator is right that as this law goes forward those individuals entrusted, the NID and CIA Director, can have a mutual respect and a mutual professional bond that will enable the views of the CIA Director to be given to the President if they are at variance with the NID. That is left up to the human quotient. This amendment, if adopted, puts it in law, not for the CIA Director but for the other members.

Ms. COLLINS. I say to the distinguished Senator that I think the analogy is very similar. The Secretary of Defense is not required to present the views of the NSA to the President. I think this works in a more collaborative way than we are giving the system credit for.

We have to be careful, while we put in all of these safeguards—and I support the chairman's amendment—that we do not create a situation where it is unclear who is the principal adviser to the President. And that, under our bill, is the national intelligence director.

Mr. WARNER. In no way do I wish to in any way diminish the significance of the NID that is now being created presumably by law in the future. I think we have had a healthy discussion. I appreciate the distinguished manager accepting this amendment, and I will continue to work on the Director of the CIA issue which I continue to be concerned about. Maybe as a consequence of this colloquy, those who might be following it could come up with an idea. I hope they would communicate it to me or to the distinguished chairman.

If there is no further debate, I ask that the amendment be agreed to.

I ask unanimous consent that the following Senators be added as cosponsors to the amendment: Senators STEVENS, INOUYE, TALENT, ALLARD, DOLE, CHAMBLISS, CORNYN, ENSIGN, and INHOFE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 3781, as modified.

The amendment (No. 3781), as modified, was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. I wish to express my appreciation to the distinguished manager. I look forward to rejoining her tomorrow. Let us hope that those amendments that I bring forward largely with my colleague Mr. STEVENS will add to the strength of this bill.

Ms. COLLINS. I thank the Senator from Virginia for his contributions. It is always a pleasure to work with him, particularly on an issue that is so important to our Nation's security.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, we are still on the bill being managed by Senators LIEBERMAN and COLLINS?

The PRESIDING OFFICER. That is correct.

Mr. REID. I ask unanimous consent to lay aside any pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. On behalf of Senator SCHUMER, I ask unanimous consent it be in order to call up eight amendments, and after their reporting, they be set aside. Senator SCHUMER understands these can be acted upon in different ways, but we offer those on his behalf. He indicated to me that a number of these he thinks will be accepted. This gives the staff a chance to look at them and the manager can tell Senator SCHUMER which of those will not be accepted and he can come and debate those.

Ms. COLLINS. Mr. President, reserving the right to object, I ask the Democratic whip that those amendments be interspersed with Republican amendments.

Mr. REID. That is appropriate. I modify my request that that be the case.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3887 THROUGH 3894, EN BLOC

Mr. REID. I call up amendments numbered 3887 to 3894, en bloc.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] for Mr. SCHUMER, proposes amendments numbered 3887 through 3894, en bloc.

The amendments are as follows:

AMENDMENT NO. 3887

(Purpose: To amend the Foreign Intelligence Surveillance Act of 1978 to cover individuals, other than United States persons, who engage in international terrorism without affiliation with an international terrorist group)

At the appropriate place, insert the following:

SEC. ___. AMENDMENTS TO FISA.

(a) TREATMENT OF NON-UNITED STATES PERSONS WHO ENGAGE IN INTERNATIONAL TERRORISM WITHOUT AFFILIATION WITH INTERNATIONAL TERRORIST GROUPS.—

(1) IN GENERAL.—Section 101(b)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)(1)) is amended by adding at the end the following new subparagraph:

''(C) engages in international terrorism or activities in preparation therefor; or''.

(2) SUNSET.—The amendment made by paragraph (1) shall expire on the date that is 5 years after the date of enactment of this section.

(b) ADDITIONAL ANNUAL REPORTING REQUIREMENTS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—

(1) ADDITIONAL REPORTING REQUIREMENTS.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(A) by redesignating—

(i) title VI as title VII; and

(ii) section 601 as section 701; and

(B) by inserting after title V the following new title VI:

''TITLE VI—REPORTING REQUIREMENT

''ANNUAL REPORT OF THE ATTORNEY GENERAL

''SEC. 601. (a) In addition to the reports required by sections 107, 108, 306, 406, and 502 in April each year, the Attorney General shall submit to the appropriate committees of Congress each year a report setting forth with respect to the one-year period ending on the date of such report—

''(1) the aggregate number of non-United States persons targeted for orders issued under this Act, including a break-down of those targeted for—

''(A) electronic surveillance under section 105;

''(B) physical searches under section 304;

''(C) pen registers under section 402; and

''(D) access to records under section 501;

''(2) the number of individuals covered by an order issued under this Act who were determined pursuant to activities authorized by this Act to have acted wholly alone in the activities covered by such order;

''(3) the number of times that the Attorney General has authorized that information obtained under this Act may be used in a criminal proceeding or any information derived therefrom may be used in a criminal proceeding; and

''(4) in a manner consistent with the protection of the national security of the United States—

''(A) the portions of the documents and applications filed with the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted;

''(B) the portions of the opinions and orders of the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted.

''(b) The first report under this section shall be submitted not later than six months after the date of the enactment of this Act. Subsequent reports under this section shall be submitted annually thereafter.

''(c) In this section, the term 'appropriate committees of Congress' means—

''(1) the Select Committee on Intelligence and the Committee on the Judiciary of the Senate; and

''(2) the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.''.

(2) CLERICAL AMENDMENT.—The table of contents for that Act is amended by striking the items relating to title VI and inserting the following new items:

''TITLE VI—REPORTING REQUIREMENT

''Sec. 601. Annual report of the Attorney General.

''TITLE VII—EFFECTIVE DATE

''Sec. 701. Effective date.''.

AMENDMENT NO. 3888

(Purpose: To establish the United States Homeland Security Signal Corps to ensure proper communications between law enforcement agencies)

At the appropriate place, insert the following:

SEC. ___. U.S. HOMELAND SECURITY SIGNAL CORPS.

(a) SHORT TITLE.—This section may be cited as the ''U.S. Homeland Security Signal Act of 2004''.

(b) HOMELAND SECURITY SIGNAL CORPS.—

(1) IN GENERAL.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended by adding at the end the following:

''SEC. 510. HOMELAND SECURITY SIGNAL CORPS.

''(a) ESTABLISHMENT.—There is established, within the Directorate of Emergency Preparedness and Response, a Homeland Security Signal Corps (referred to in this section as the 'Signal Corps').

''(b) PERSONNEL.—The Signal Corps shall be comprised of specially trained police officers, firefighters, emergency medical technicians, and other emergency personnel.

''(c) RESPONSIBILITIES.—The Signal Corps shall—

''(1) ensure that first responders can communicate with one another, mobile command centers, headquarters, and the public at disaster sites or in the event of a terrorist attack or a national crisis;

''(2) provide sufficient training and equipment for fire, police, and medical units to enable those units to deal with all threats and contingencies in any environment; and

''(3) secure joint-use equipment, such as telecommunications trucks, that can access surviving telephone land lines to supplement communications access.

''(d) NATIONAL SIGNAL CORPS STANDARDS.—The Signal Corps shall establish a set of standard operating procedures, to be followed by signal corps throughout the United States, that will ensure that first responders from each Federal, State, and local agency have the methods and means to communicate with, or substitute for, first responders from other agencies in the event of a multi-state terrorist attack or a national crisis.

''(e) DEMONSTRATION SIGNAL CORPS.—

''(1) IN GENERAL.—The Secretary shall establish demonstration signal corps in New York City, and in the District of Columbia, consisting of specially trained law enforcement and other personnel. The New York City Signal Demonstration Corps shall consist of personnel from the New York Police Department, the Fire Department of New York, the Port Authority of New York and New Jersey, and other appropriate Federal, State, regional, or local personnel. The District of Columbia Signal Corps shall consist of specially trained personnel from all appropriate Federal, State, regional, and local law enforcement personnel in Washington, D.C., including from the Metropolitan Police Department.

''(2) RESPONSIBILITIES.—The demonstration signal corps established under this subsection shall—

''(A) ensure that 'best of breed' military communications technology is identified and secured for first responders;

''(B) ensure communications connectivity between the New York Police Department, the Fire Department of New York, and other appropriate Federal, State, regional, and local law enforcement personnel in the metropolitan New York City area;

''(C) identify the means of communication that work best in New York's tunnels, skyscrapers, and subways to maintain communications redundancy;

''(D) ensure communications connectivity between the Capitol Police, the Metropolitan Police Department, and other appropriate Federal, State, regional, and local law enforcement personnel in the metropolitan Washington, D.C. area;

''(E) identify the means of communication that work best in Washington, D.C.'s office buildings, tunnels, and subway system to maintain communications redundancy; and

''(F) serve as models for other major metropolitan areas across the Nation.

''(3) TEAM CAPTAINS.—The mayor of New York City and the District of Columbia shall appoint team captains to command communications companies drawn from the personnel described in paragraph (1).

''(4) TECHNICAL ASSISTANCE.—The Signal Corps Headquarters, located in Fort Monmouth, New Jersey, shall provide technical assistance to the New York City Demonstration Signal Corps.

''(f) REPORTING REQUIREMENT.—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Secretary shall submit a report, to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives, which outlines the progress of the Signal Corps in the preceding year and describes any problems, issues, or other impediments to effective communication between first responders in the event of a terrorist attack or a national crisis.

''(g) AUTHORIZATION OF APPROPRIATIONS.—

''(1) DEMONSTRATION SIGNAL CORPS.—There are authorized to be appropriated $50,000,000 for fiscal year 2005 to carry out subsection (e).

''(2) FISCAL YEARS 2006 THROUGH 2009.—There are authorized to be appropriated $100,000,000 for each of the fiscal years 2006 through 2008—

''(A) to create signal corps in high terrorism threat areas throughout the United States; and

''(B) to carry out the mission of the Signal Corps to assist Federal, State, and local law enforcement agencies to effectively communicate with each other during a terrorism event or a national crisis.''.

(2) TECHNICAL AMENDMENT.—Section 1(b) of the Homeland Security Act of 2002 (Public Law 107–296) is amended by inserting after the item relating to section 509 the following:

''Sec. 510. Homeland Security Signal Corps.''.

AMENDMENT NO. 3889

(Purpose: To establish a National Commission on the United States-Saudi Arabia Relationship)

At the appropriate place, insert the following new section:

SEC. ___. COMMISSION ON THE UNITED STATES-SAUDI ARABIA RELATIONSHIP.

(a) FINDINGS.—Congress makes the following findings:

(1) Despite improvements in counter-terrorism cooperation between the Governments of the United States and Saudi Arabia following the terrorist attacks in Riyadh, Saudi Arabia on May 12, 2003, the relationship between the United States and Saudi Arabia continues to be problematic in regard to combating Islamic extremism.

(2) The Government of Saudi Arabia has not always responded promptly and fully to United States requests for assistance in the global war on Islamist terrorism. Examples of this lack of cooperation have included an unwillingness to provide the United States Government with access to individuals wanted for questioning in relation to terrorist acts and to assist in investigations of terrorist activities.

(3) The state religion of Saudi Arabia, a militant and exclusionary form of Islam known as Wahhabism, preaches violence against nonbelievers or infidels and serves as the religious basis for Osama Bin Laden and al Qaeda. Through support for madrassas, mosques, cultural centers, and other entities Saudi Arabia has actively supported the spread of this religious sect.

(4) The Secretary of State designated Saudi Arabia a country of particular concern under section 402(b)(1)(A) of the International Religious Freedom Act of 1998 (22 U.S.C. 6442(b)(1)(A)) because the Government of Saudi Arabia has engaged in or tolerated systematic, ongoing, and egregious violations of religious freedom.

(5) The Department of State's International Religious Freedom Report for 2004 concluded that religious freedom does not exist in Saudi Arabia.

(6) The Ambassador-at-large for International Religious Freedom expressed concern about Saudi Arabia's export of religious extremism and intolerance to other countries where religious freedom for Muslims is respected.

(7) Historically, the Government of Saudi Arabia has allowed financiers of terrorism to operate within its borders.

(8) The Government of Saudi Arabia stated in February 2004 that it would establish a national commission to combat terrorist financing within Saudi Arabia, however, it has not fulfilled that promise.

(9) There have been no reports of the Government of Saudi Arabia pursuing the arrest, trial, or punishment of individuals who have provided financial support for terrorist activities. The laws of Saudi Arabia to combat terrorist financing have not been fully implemented.

(b) COMMISSION ON THE UNITED STATES-SAUDI ARABIA RELATIONSHIP.—

(1) ESTABLISHMENT.—There is established, within the legislative branch, the National Commission on the United States-Saudi Arabia Relationship (in this section referred to as the ''Commission'').

(2) PURPOSES.—The purposes of the Commission are to investigate, evaluate, and report on—

(A) the current status and activities of diplomatic relations between the Government of the United States and the Government of Saudi Arabia;

(B) the degree of cooperation exhibited by the Government of Saudi Arabia toward the Government of the United States in relation to intelligence, security cooperation, and the fight against Islamist terrorism;

(C) the status of the support provided by the Government of Saudi Arabia to promote the dissemination of Wahabbism; and

(D) the efforts of the Government of Saudi Arabia to enact domestic measures to curtail terrorist financing.

(3) AUTHORITY.—The Commission is authorized to carry out purposes described in paragraph (2).

(c) COMPOSITION OF COMMISSION.—The Commission shall be composed of 10 members, as follows:

(1) Two members appointed by the President, one of whom the President shall designate as the chairman of the Commission.

(2) Two members appointed by the Speaker of the House of Representatives.

(3) Two members appointed by the minority leader of the House of Representatives.

(4) Two members appointed by the majority leader of the Senate.

(5) Two members appointed by the minority leader of the Senate.

(d) REPORT.—Not later that 270 days after the date of the enactment of this Act, the Commission shall submit to the President and Congress a report on the relationship between the United States and Saudi Arabia. The report shall include the recommendations of the Commission to—

(1) increase the transparency of diplomatic relations between the Government of the United States and the Government of Saudi Arabia;

(2) improve cooperation between Government of the United States and the Government of Saudi Arabia in efforts to share intelligence information related to the war on terror;

(3) curtail the support and dissemination of Wahabbism by the Government of Saudi Arabia;

(4) enhance the efforts of the Government of Saudi Arabia to combat terrorist financing;

(5) create a foreign policy strategy for the United States to improve cooperation with the Government of Saudi Arabia in the war on terror, including any recommendations regarding the use of sanctions or other diplomatic measures;

(6) curtail the support or toleration of violations of religious freedom by the Government of Saudi Arabia; and

(7) encourage the Government of Saudi Arabia to improve the human rights conditions in Saudi Arabia that have been identified as poor by the Department of State.

(e) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of the enactment of this Act.

AMENDMENT NO. 3890

(Purpose: To improve the security of hazardous materials transported by truck)

At the end, add the following new title:

TITLE IV—SECURITY OF TRUCKS TRANSPORTING HAZARDOUS MATERIALS

SEC. 401. IMPROVEMENTS TO SECURITY OF HAZARDOUS MATERIALS TRANSPORTED BY TRUCK.

(a) PLAN FOR IMPROVING SECURITY OF HAZARDOUS MATERIALS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall develop a plan for improving the security of hazardous materials transported by truck.

(2) CONTENT.—The plan under paragraph (1) shall include—

(A) a plan for tracking such hazardous materials;

(B) a strategy for preventing hijackings of trucks carrying such materials; and

(C) a proposed mechanism for recovering lost or stolen trucks carrying such materials.

(b) INCREASED INSPECTION OF TRUCKS.—

(1) IN GENERAL.—The Secretary of Homeland Security shall require that the number of trucks entering the United States that are manually searched and screened in fiscal year 2005 is at least twice the number of trucks manually searched and screened in fiscal year 2004.

(2) WAIT TIMES AT INSPECTIONS.—In carrying out this section, the Secretary shall ensure that the average wait time for trucks entering the United States does not increase.

(c) BACKGROUND CHECKS.—Beginning not later than 3 years after the date of the enactment of this Act, the Secretary of Homeland Security shall require background checks of all truck drivers with certifications to transport hazardous materials.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of enactment of this Act.

AMENDMENT NO. 3891

(Purpose: To improve rail security)

At the end, add the following new title:

TITLE IV—RAIL SECURITY

SEC. 401. IMPROVEMENTS TO RAIL SECURITY.

(a) PROTECTION OF PASSENGER AREAS IN RAIL STATIONS.—The Secretary of Homeland Security shall require that, not later than 2 years after the date of the enactment of this Act, each of the 30 rail stations in the United States with the highest daily rate of passenger traffic be equipped with a sufficient number of wall-mounted and ceiling-mounted radiological, biological, chemical, and explosive detectors to provide coverage of the entire passenger area of such station.

(b) USE OF THREAT DETECTORS REQUIRED ON CERTAIN TRAINS.—The Secretary of Homeland Security shall require that, not later than 3 years after the date of the enactment of this Act, each train traveling through any of the 10 rail stations in the United States with the highest daily rate of passenger traffic be equipped with a radiological, biological, chemical, and explosive detector.

(c) REPORT ON SAFETY OF PASSENGER RAIL TUNNELS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall—

(A) review the safety and security of all passenger rail tunnels, including in particular the access and egress points of such tunnels; and

(B) submit to Congress a report on needs for improving the safety and security of passenger rail tunnels.

(2) CONTENT.—The report under paragraph (1) shall include recommendations regarding the funding necessary to eliminate security deficiencies at, and upgrade the safety of, passenger rail tunnels.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of enactment of this Act.

AMENDMENT NO. 3892

(Purpose: To strengthen border security)

At the end, add the following new title:

TITLE IV—STRENGTHENING BORDER SECURITY

SEC. 401. TECHNOLOGY STANDARDS TO CONFIRM IDENTITY.

Section 403(c)(1) of the USA PATRIOT ACT (8 U.S.C. 1379(1)) is amended to read as follows:

''(1) IN GENERAL.—The Attorney General, the Secretary of State, and the Secretary of Homeland Security jointly, through the National Institute of Standards and Technology (NIST), and in consultation with the Secretary of the Treasury and other Federal law enforcement and intelligence agencies that the Attorney General, Secretary of State, and the Secretary of Homeland Security deem appropriate and in consultation with Congress, shall prior to October 26, 2005, develop and certify a technology standard, including appropriate biometric identifier standards for multiple immutable physical characteristics, such as fingerprints and eye retinas, that can be used to verify the identity of persons applying for a United States visa or such persons seeking to enter the United States pursuant to a visa for the purposes of conducting background checks, confirming identity, and ensuring that a person has not received a visa under a different name.''.

SEC. 402. REQUIREMENTS FOR ENTRY AND EXIT DOCUMENTS.

(a) IN GENERAL.—Paragraph (1) of section 303(b) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732(b)) is amended to read as follows:

''(1) IN GENERAL.—Not later than October 25, 2005, the Attorney General, the Secretary of State, and the Secretary of Homeland Security shall issue to aliens only machine-readable, tamper-resistant visas and other travel and entry documents that use biometric identifiers for multiple immutable characteristics, such as fingerprints and eye retinas. The Attorney General, the Secretary of State, and the Secretary of Homeland Security shall jointly establish biometric and document identification standards for multiple immutable physical characteristics, such as fingerprints and eye retinas, to be employed on such visas and other travel and entry documents.''.

(b) CONSULTATION REQUIREMENTS.—Such section is further amended—

(1) in paragraph (2)(A), by striking ''in consultation with the Secretary of State'' and inserting ''in consultation with the Secretary of State and the Secretary of Homeland Security''; and

(2) in paragraph (2)(B) in the matter preceding clause (i), by striking ''in consultation with the Secretary of State'' and inserting ''in consultation with the Secretary of State and the Secretary of Homeland Security''.

(c) USE OF READERS AND SCANNERS.—Paragraph (2)(B) of such section, as amended by subsection (b), is further amended—

(1) by redesignating clauses (i), (ii), and (iii) as (ii), (iii), and (iv), respectively; and

(2) by inserting before clause (ii), as redesignated by paragraph (1), the following:

''(i) can authenticate biometric identifiers of multiple immutable physical characteristics, as such fingerprints and eye retinas;''.

(d) CERTIFICATION REQUIREMENTS.—Subsection (c) of such section is amended to read as follows:

''(1) IN GENERAL.—Not later than October 26, 2005, the government of each country that is designated to participate in the visa waiver program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) shall certify, as a condition of designation or a continuation of that designation, that it has a program to issue to its nationals machine-readable passports that are tamper-resistant and incorporate biometric and authentication identifiers of multiple immutable physical characteristics, such as fingerprints and eye retina scans. This paragraph shall not be construed to rescind the requirement of subsections (a)(3) and (c)(2)(B)(i) of section 217 of the Immigration and Nationality Act.''.

AMENDMENT NO. 3893

(Purpose: To require inspection of cargo at ports in the United States)

At the end, add the following new title:

TITLE IV—OTHER MATTERS

SEC. 401. CARGO INSPECTION.

(a) MANUAL INSPECTION.—Not later than 2 years after the date of enactment of this Act, the Secretary of Homeland Security shall require that the number of containers manually inspected at ports in the United States is not less than 10 percent of the total number of containers off-loaded at such ports.

(b) INSPECTION FOR NUCLEAR MATERIALS.—Not later than 2 years after the date of enactment of this Act, the Secretary of Homeland Security shall require that the number of containers screened for nuclear or radiological materials is not less than 100 percent of the total number of containers off-loaded at ports in the United States.

(c) INSPECTION FOR CHEMICAL, BIOLOGICAL, AND EXPLOSIVE MATERIALS.—Not later than 4 years after the date of enactment of this Act, the Secretary of Homeland Security shall require that the 10 ports in the United States that off-load the highest number of containers have the capability to screen not less than 10 percent of the total number of containers off-loaded at each such port for chemical, biological, and explosive materials.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on port security technology. Such report shall include—

(1) a description of the progress made in the research and development of port security technologies;

(2) a comprehensive schedule detailing the amount of time necessary to test and install appropriate port security technologies; and

(3) the total amount of funds necessary to develop, produce, and install appropriate port security technologies.

(e) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of enactment of this Act.

AMENDMENT NO. 3894

(Purpose: To amend the Homeland Security Act of 2002 to enhance cybersecurity, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. ENHANCING CYBERSECURITY.

(a) SHORT TITLE.—This section may be cited as the ''Department of Homeland Security Cybersecurity Enhancement Act of 2004''.

(b) ASSISTANT SECRETARY FOR CYBERSECURITY.—

(1) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is amended by adding at the end the following:

''SEC. 203. ASSISTANT SECRETARY FOR CYBERSECURITY.

''(a) IN GENERAL.—There shall be in the Directorate for Information Analysis and Infrastructure Protection a National Cybersecurity Office headed by an Assistant Secretary for Cybersecurity (in this section referred to as the 'Assistant Secretary'), who shall assist the Secretary in promoting cybersecurity for the Nation.

''(b) GENERAL AUTHORITY.—The Assistant Secretary, subject to the direction and control of the Secretary, shall have primary authority within the Department for all cybersecurity-related critical infrastructure protection programs of the Department, including with respect to policy formulation and program management.

''(c) RESPONSIBILITIES.—The responsibilities of the Assistant Secretary shall include the following:

''(1) To establish and manage—

''(A) a national cybersecurity response system that includes the ability to—

''(i) analyze the effect of cybersecurity threat information on national critical infrastructure; and

''(ii) aid in the detection and warning of attacks on, and in the restoration of, cybersecurity infrastructure in the aftermath of such attacks;

''(B) a national cybersecurity threat and vulnerability reduction program that identifies cybersecurity vulnerabilities that would have a national effect on critical infrastructure, performs vulnerability assessments on information technologies, and coordinates the mitigation of such vulnerabilities;

''(C) a national cybersecurity awareness and training program that promotes cybersecurity awareness among the public and the private sectors and promotes cybersecurity training and education programs;

''(D) a government cybersecurity program to coordinate and consult with Federal, State, and local governments to enhance their cybersecurity programs; and

''(E) a national security and international cybersecurity cooperation program to help foster Federal efforts to enhance international cybersecurity awareness and cooperation.

''(2) To coordinate with the private sector on the program under paragraph (1) as appropriate, and to promote cybersecurity information sharing, vulnerability assessment, and threat warning regarding critical infrastructure.

''(3) To coordinate with other directorates and offices within the Department on the cybersecurity aspects of their missions.

''(4) To coordinate with the Under Secretary for Emergency Preparedness and Response to ensure that the National Response Plan developed pursuant to section 502(6) of the Homeland Security Act of 2002 (6 U.S.C. 312(6)) includes appropriate measures for the recovery of the cybersecurity elements of critical infrastructure.

''(5) To develop processes for information sharing with the private sector, consistent with section 214, that—

''(A) promote voluntary cybersecurity best practices, standards, and benchmarks that are responsive to rapid technology changes and to the security needs of critical infrastructure; and

''(B) consider roles of Federal, State, local, and foreign governments and the private sector, including the insurance industry and auditors.

''(6) To coordinate with the Chief Information Officer of the Department in establishing a secure information sharing architecture and information sharing processes, including with respect to the Department's operation centers.

''(7) To consult with the Electronic Crimes Task Force of the United States Secret Service on private sector outreach and information activities.

''(8) To consult with the Office for Domestic Preparedness to ensure that realistic cybersecurity scenarios are incorporated into tabletop and recovery exercises.

''(9) To consult and coordinate, as appropriate, with other Federal agencies on cybersecurity-related programs, policies, and operations.

''(10) To consult and coordinate within the Department and, where appropriate, with other relevant Federal agencies, on security of digital control systems, such as Supervisory Control and Data Acquisition (SCADA) systems.

''(d) AUTHORITY OVER THE NATIONAL COMMUNICATIONS SYSTEM.—The Assistant Secretary shall have primary authority within the Department over the National Communications System.''.

(2) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to subtitle A of title II the following:

''203. Assistant Secretary for Cybersecurity.''.

(c) CYBERSECURITY DEFINED.—Section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101) is amended by adding at the end the following:

''(17)(A) The term 'cybersecurity' means the prevention of damage to, the protection of, and the restoration of computers, electronic communications systems, electronic communication services, wire communication, and electronic communication, including information contained therein, to ensure its availability, integrity, authentication, confidentiality, and nonrepudiation.

''(B) In this paragraph—

''(i) each of the terms 'damage' and 'computer' has the meaning that term has in section 1030 of title 18, United States Code; and

''(ii) each of the terms 'electronic communications system', 'electronic communication service', 'wire communication', and 'electronic communication' has the meaning that term has in section 2510 of title 18, United States Code.''.

Mr. REID. While I have the floor, we have a lot more amendments filed than I ever dreamed. Everyone should understand there will have to be significant movement on this bill in the next 24 hours in the way of offering amendments. I hope people offer amendments tomorrow. It will be terribly embarrassing to the leaders if Monday we have nothing to vote on. I think that will not be the case, but I think we are to the point where there may have to be something done to move this along more quickly than it has been. That may include filing cloture in the next 24 hours.

Ms. COLLINS. Mr. President, I appreciate the assistance of the assistant Democratic leader. I echo his hope that Members will come to the Chamber tomorrow to offer and debate their amendments. We will delay the votes on those amendments until Monday, but we have an awful lot of work to be done. Senator LIEBERMAN and I will be here tomorrow ready to engage on these amendments. I ask my colleagues to be here as well and help make progress on this very important bill. We are making some progress, but we are not making enough progress and we need to pick up the pace. We need to whittle down that amendment list. We need to have some of those amendments simply go away. I hope that will happen.

Mr. LEAHY. Mr. President. I rise today to address one of the most timely and sensitive recommendations of the 9/11 Commission, the creation of a civil liberties board to provide checks and balances against the ''enormous authority'' granted the government by the people. Critically, the 9/11 Commission concluded: ''We must find ways of reconciling security with liberty, since the success of one helps protect the other.''

There is no doubt that such a board is needed given the heightened civil liberty tensions created by the realities of terrorism and modern warfare. The tools of the information age include precise data-gathering, networked databases, and tracking and sensing technologies impervious to the common eye. As Vice Chairman Hamilton noted, in a recent Judiciary Committee hearing, as he commented about the security steps and the technology that are quickly becoming ubiquitous in our post-9/11 world, these developments are ''an astounding intrusion in the lives of ordinary Americans that (are) routine today in government.'' With such powerful tools come heightened responsibility.

We have an obligation to ensure that there are mechanisms in place that will see to it that this power is subject to appropriate checks and balances and Congressional oversight. An effective civil liberties board can provide those checks and contribute to preserving both liberty and security.

We need a civil liberties board that can think critically and independently about the policies we implement as a nation and about how they affect our fundamental rights. The board must be able to participate in the policymaking

process, review technology choices and options, peer into various agencies and assess actions, review classified materials and investigate concerns. This board must have the versatility to work closely with government officials, but at the same time it must be sufficiently independent to assess those government policies without fear, favor or compromise. Given these significant responsibilities, it is equally important that the board be accountable to Congress and the American people.

The civil liberties board outlined in the Collins-Lieberman bill makes great strides in meeting these goals. It represents a true bipartisan effort from conception to introduction. I was pleased to work with these Senators along with Senator DURBIN to make this civil liberties board the kind of board that would honor the 9/11 Commission's intent.

It establishes a bipartisan board that would have access to the documents and information needed to assess our counterterrorism policies that affect the vital civil liberties of the American people. It provides a mechanism for them to work closely with administration officials, including working with a network of newly created department-level privacy and civil liberty officers, whose proximity to decision makers will ensure that these concerns are considered from the earliest stages of policy formation. It requires the board to report to Congress on a regular basis, and without compromising classified information, inform the public about policies that impact their vital liberties.

Unfortunately, Senator KYL's amendment No. 3801 attempts to gut the carefully crafted, bipartisan civil liberty and privacy provisions that are the hallmark of the Collins-Lieberman bill. It is inconsistent with the recommendations of the 9/11 Commission and would undermine the civil liberties that we cherish.

First, Senator KYL's amendment attempts to cut off the information flow that would ensure that the board could accurately, reliably and effectively advise on the impact of policies on privacy and civil liberties. It would also eliminate the board's ability to subpoena people outside of the government who may have important information, such as private sector data collectors working on behalf of the government. It would also eliminate the privacy officers, as well as public hearings and reports to the public.

It is clear that the commission intended for the board to have access to the information that it needed in order to effectively assess policy. In a recent House Judiciary Committee hearing, Vice Chairman Hamilton said, ''The key requirement is that government agencies must be required to respond to the board.'' He went on to note that the commission itself had subpoena power, and ''if we had not had it, our job would have been much, much more difficult.'' I would note that the Collins-Lieberman bill does not go as far as to mandate subpoena power over government officials, but rather only over relevant non-government persons.

Given the secrecy and civil liberty concerns that have been pervasive in this administration, we should be enhancing information flow and dialogue, not eliminating it. It is ironic that at the same time that the administration has been making it more difficult for the public to learn what government agencies are up to, the government and its private sector partners have been quietly building more and more databases to learn and store more information about the American people.

Second, Senator KYL's amendment would eliminate a provision that gives the board important guidance on how to review requests by the government for new and enhanced powers. This is a critical omission. In order to balance liberty and security, we need to ensure that the board will be looking at policies through a prism that would allow for heightened security protection, while also ensuring that intrusions are not disproportionate to benefits, or that they would unduly undermine privacy and civil liberties.

Contrary to assertions that this would be a ''citizen board'' gone wild that would ''haul any agent in anywhere in the world and grill him,'' this board would consist of highly accomplished members who have the appropriate clearance to access classified information, who have extensive professional expertise on civil liberty and privacy issues, and who have the knowledge of how to view these concerns in the context of important anti-terrorism objectives.

It simply cannot be that the government can create and implement policies that impinge on our liberties without having to account to anyone. While that may make things convenient or easy, it certainly does not preserve the ideals of the country we are fighting to protect.

Senator KYL's amendment is just the latest of recent attempts to undermine the 9/11 Commission's clear recommendations for an effective board. The administration recently issued an executive order that attempted to foist upon us an anemic civil liberties board. I and several of my colleagues noted in a letter to the President that the board was not a bipartisan or independent entity. It had no authority to access information and no accountability. It was housed in the Department of Justice, and comprised solely of administration officials from the law enforcement and intelligence communities, precisely the communities that the board would have an obligation to oversee. It was the proverbial case of the fox guarding the henhouse. This would not have resulted in a vigorous consideration of policy that the Commission intended.

As the Commission noted, the ''burden of proof for retaining a particular governmental power should be on the Executive, to explain (a) that the power actually materially enhances security and (b) that there is adequate supervision of the Executive's use of the powers to ensure protection of civil liberties. If the power is granted, there must be adequate guidelines and oversight to properly confine its use.''

We should be looking for ways to ensure that this burden of proof will be met, rather than weakening oversight and accountability.

As the 9/11 Commission noted, when it comes to security and civil liberties, ''while protecting our homeland, Americans should be mindful of threats to vital personal and civil liberties. This balancing is no easy task, but we must constantly strive to keep it right.''

Senator KYL's amendment fails to ''keep it right,'' and I urge that the Senate honor the spirit of the recommendations of the 9/11 Commission, and reject it.

Mr. DURBIN. Mr. President, in 1957, when America was caught off guard by the Soviet Union's launch of a satellite named Sputnik, Congress passed a massive education bill, the National Defense Education Act, which poured federal funds into the study of math, science and strategic languages like Russian. Thirty-two years later, the Soviet Union fell. Following the 9/11 attacks and the Commission's report, we need to rise to the challenge once again. We must intensify the study of strategic foreign languages, like Arabic, Pashto and Korean.

According to the Department of Education, only 22 of the 1.8 million American students who graduated from college last year earned degrees in Arabic. This figure has remained about the same over the last decade. And as the 9/11 Commission reported, and the Washington Post and the New York Times reiterated on Tuesday, the lack of qualified personnel has left hundreds of thousands of pages of intercepted terrorist communication untranslated.

On page 77 of the Commission's report, the Commission notes the FBI ''lacked sufficient translators proficient in Arabic and other key languages, resulting in a significant backlog of untranslated intercepts.'' On page 92, the report adds, ''Very few American colleges and universities offered programs in Middle Eastern languages or Islamic studies.'' The 9/11 report also calls for both the CIA and the FBI to strengthen their language programs and for the FBI to improve ability to attract candidates with technological skills.

At a hearing of the Senate Governmental Affairs Oversight of Government Management Subcommittee on September 14, 9/11 Commissioner Fred Fielding described the lack of language skills at intelligence agencies as: ''embarrassing.'' FBI Assistant Director for Administrative Services Mark Bullock testified that while the agency is receiving thousands of applicants, the agency has found it ''difficult hiring agents with language skills, skills in the right languages.''

We can do better.

The bill we are considering today does address education, but not completely. This bill calls for better coordination of joint training among the intelligence agencies and authorizes, but does not direct, the National Intelligence Director to collaborate with the intelligence agencies to establish a scholarship program, in which students agree to work for an agency in exchange for financial assistance with their education. I commend the managers of the bill for including this innovative education subsidy-for-service approach. This is an important mechanism to put in place, although we need to do more to expand instruction in critical foreign language, particularly in the area of science and technology. If no one is teaching the classes we need, we can't improve the pool of qualified applicants from which the intelligence community can recruit.

The amendment my colleagues from Florida and Hawaii and I sponsored will expand targeted educational opportunities to promote integration of intelligence collection and analysis and to prepare intelligence personnel to work with other agencies.

We ask the National Intelligence Director to assess the current needs of the intelligence community with respect to language skills; determine whether the community's needs for critical foreign language skills and understanding science and technology terms in those languages are being met; and report to Congress recommendations for programs to help meet those needs.

In developing its report, the NID is directed to take into account existing education grant programs through the Departments of Education and Defense. The first report is due to Congress within one year of enactment, and then again each year after that.

I thank the Senators from Florida and Hawaii for their willingness to work together in developing language to strengthen the critical language education component of the reorganized intelligence community. And I thank my colleagues from Maine and Connecticut for their leadership in crafting and managing this important piece of legislation, which now includes this additional focus on strengthening necessary language skills in this country.

Mr. MCCAIN. Mr. President, as I noted on the floor yesterday, the Senate is now engaged in perhaps the most important debate of the 108th Congress. Increasing the security of our country against terrorist attack requires new strategies, new ways of thinking, and new ways of organizing our Government. That is what this legislative debate is all about.

Earlier this month, I joined with Senator LIEBERMAN and others in introducing comprehensive legislation to implement all the 9/11 Commission recommendations. Along with Senator LIEBERMAN, I pledged that the Commission's recommendations—including the ones not already addressed in the underlying bill—would be fully debated. Yesterday, we offered an amendment that was designed to address the Commission's transportation security-related recommendations. Now we will offer an amendment that encompasses the Commission's diplomacy, foreign aid, and military-related recommendations.

I send an amendment to the desk on behalf of myself, Senator LIEBERMAN, and Senator BAYH, and ask for its immediate consideration.

This amendment is very similar to Title V of S. 2774, the 9/11 Commission Report Implementation Act of 2004, which we introduced earlier this month. In drafting this amendment, we have worked with the Senate Foreign Relations Committee to develop consensus language concerning areas of their jurisdiction, and with the Senate Armed Services and Banking Committees to develop language for other provisions.

As the Commission report observed, there were many deficiencies that led to the terrorist attacks of September 11. Not the least was the failure of the United States to adapt its foreign policy to address the changed realities of the post-cold war era. In hindsight, it is evident that we did not do enough to prevent the creation of terrorist sanctuaries, encourage the democratization of the Greater Middle East, and engage countries such as Pakistan, Afghanistan and Saudi Arabia in their battles against fundamentalism.

In light of this realization, the Commission found that no single set of strategies is sufficient to prevent future terrorist attacks. The United States must use all of the instruments at our disposal to counter the short- and long-term threats posed by international terrorism. For this reason, it is critical to pay due attention to the role of diplomacy, foreign aid, and the military.

Consistent with the Commission's recommendations, this amendment requires the executive branch to develop a strategy to address and, where possible, eliminate terrorist sanctuaries. It renews the U.S. commitment to Pakistan's future, in light of the critical role that country plays in the war on terror, and authorizes assistance to Afghanistan—aid that many of us believe must be increased. The amendment addresses our relations with Saudi Arabia and suggests establishing an international contact group to develop a multilateral counterterrorism strategy.

Our amendment also calls on the U.S. Government to work with our coalition partners to develop a common approach to the treatment of detainees, and reiterates standards for the humane treatment of enemy detainees—standards that our soldiers and officials should have been following all along. Most of this language was taken directly from the Senate-passed version of the Department of Defense Authorization bill, which is now pending in conference. The Senate has already spoken on this issue once; however, it has yet to be enacted. We must continue pressing to ensure that America treats individuals in its custody humanely, as the Commission rightly advocates. As the 9/11 Commission rightly pointed out, allowing torture of prisoners only makes it more difficult to build the alliances and support we need to defeat terrorism. Portrayals of inhumane treatment of captured terrorists hinder our ability to engage in the wider struggle against them.

Other provisions in this amendment are designed to enhance America's ability to fight the war of ideas by promoting universal values of democracy, tolerance, and openness. It authorizes funding for U.S. broadcasts to Muslim countries, and authorizes an increase in our education and exchange programs. In addition, it establishes an International Youth Opportunity Fund that will provide financial assistance for the improvement of public education in the Middle East. Finally, the amendment notes that the proliferation of weapons of mass destruction is a grave and gathering threat to this country, and requires the executive branch to develop a strategy to expand and strengthen our nonproliferation programs.

This amendment is the next step in fulfilling the mandate of the 9/11 Commission recommendations and ensuring that we orient our diplomacy, foreign aid, and military programs toward combating terrorist threats, in both the short and long terms. The provisions in our amendment are not the only steps that are needed, and there are a number of other important actions that the executive branch should undertake in order to fully implement the Commission's recommendations. But I believe that passing this amendment is a vital and necessary step.

I urge my colleagues to support this amendment.

AMENDMENT NO. 3771

Mr. BINGAMAN. Mr. President, since the Manhattan project, national laboratory scientists have performed an inherently unique governmental function of not only designing and producing nuclear weapons, but analyzing intelligence on foreign nuclear weapons and nuclear technology.

In performing this governmental function, the national laboratory scientists have staffed the Joint Atomic Intelligence Committee, which produces strategic assessments on foreign nuclear weapons programs, helped produce technical assessments of foreign nuclear weapons, and provided critical technical support in disabling improvised nuclear devices, which in today's post-9/11 environment is one of our greatest fears. In many cases these functions are performed through rotational assignments to the intelligence community staff.

The amendment I have offered today, and cosponsored by my colleague Senator DOMENICI, preserves this rotational capability in the intelligence reforms proposed by Senators COLLINS and LIEBERMAN.

Typically, national laboratory personnel can be detailed to the intelligence community, or any Federal agency, through the Intergovernmental Personnel Act. This act permits employees of federally funded research and development centers, FFRDCs, to act for set periods of time, as staff of a Government agency.

This amendment does not alter the authorities under the act. What this amendment does is reinforce the congressional intent, that in addition to the authorities granted to the National Intelligence Authority to staff its centers with personnel from other branches of the Government, that it continue to be able to utilize the unique capabilities of Department of Energy staff and other FFRDCs.

MORNING BUSINESS

Ms. COLLINS. Mr. President, I ask unanimous consent there be a period of morning business, with Senators speaking for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. I ask unanimous consent to proceed for 17 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

PRIVATE FIRST CLASS KEVIN OTT

Mr. DEWINE. Mr. President, I come to the Senate this evening to pay tribute to a fellow Ohioan, a brave soldier who lost his life while making our own safer. Army PFC Kevin Ott disappeared north of Baghdad, Iraq, on June 25th, 2003. Three days later, on June 28th, everyone's worst fears were realized. The military personnel found Kevin's body following a very exhaustive search. Kevin Ott was only 27 years of age.

When I think about the loss of young soldiers, I am reminded of something that President John F. Kennedy said to the 1st Armored Division in Fort Stewart, GA, as they were prepared to deploy to Cuba. In 1962 this is what President Kennedy said:

> Many years ago, according to a story there was found in a sentry box in Gibraltar, a poem which said:
>
> God and the soldier all men adore
> In time of danger and not before
> When the danger is past and all things righted
> God is forgotten and the soldier slighted.

President Kennedy continued:

> This country does not forget God or the soldier.
>
> Upon both we depend.

President Kennedy said it so well. We depend on our service men and women. We depended on Kevin Ott. We will not forget him. We will never forget him.

I rise this evening to remember Kevin, to remember him as he was and will forever remain, a devoted son, supportive brother, and patriotic soldier. Kevin Ott grew up in Orient, OH, son of loving parents Alma and Charles Ott. He and his sisters and brothers were close and would remain so throughout their lives. Kevin went to Westfall High School. He was on the basketball team and enjoyed spending time with friends. He graduated in 1993 and then attended Bluffton College where he was a sports lover and played defensive end on the football team.

While Kevin's love of sports certainly ran deep, his passion also was for motorcycles. He certainly loved that bike. His sister Pam remembers how Kevin took her for a ride one afternoon. She said:

> I was afraid because I knew he loved to go really fast. But, to my surprise, he went slowly because he knew I was scared.

Kevin was a good brother, son, and friend. He was deeply devoted to his family, and with their love and guidance he became devoted to his church and his faith. Throughout his entire life Kevin was a strongly spiritual person. He was active in his church from the time he was 4 years old. His parents fondly remember how his faith guided their son's decisions and how it directed his life.

At the Southwest Community Church of the Nazarene, Kevin worked with the youth group, sang in the choir, and went on a mission trip to Mexico where he helped build houses.

These experiences taught him to see the hand of God in all things. It increased his faith, the faith that would see him through the difficult times in his life.

The tragic events of September 11 changed the course of Kevin's life as it changed the course of so many people's lives. It was then that he decided he wanted to join the military. He wanted to prevent such a tragedy ever happening again.

Kevin left his job as a machinist with J.W. Groves and Sons to enlist in the Army in January 2002. He immediately excelled. His comrades remembered him as a capable soldier, someone they could always count on.

Kevin's brother-in-law Jim Pack recalled that Kevin loved the military. He said that he had found his calling in life. Kevin was assigned to Battery B, 3rd Battalion, 18th Field Artillery Regiment, based out of Fort Sill, OK. While in Iraq, Kevin was in charge of guarding an ammunitions depot. He wrote home often, and his parents could tell their son was proud of his service. They saved Kevin's postcards and looked forward to any contact they had with him. They recognized that their son loved Army life and knew that he believed in what he was doing.

Though the news of Kevin's death was, of course, devastating to the Ott family, Charles said his son was at peace with his faith and was not afraid to die. His faith saw him through and took him to his final resting place.

When we lost Kevin Ott, our Nation mourned. Charles and Alma lost their loving son. Pam, Julie, Joyce, Diane, and Doug lost their loyal brother. They miss his joking nature, his love of sports and motorcycles. They miss him coaching his nephew's Little League team. But most of all they just miss spending time with him.

So, as President Kennedy said, over 40 years ago: ''This country does not forget . . . the soldier.'' This country will not forget Kevin Ott.

OHIO FLOODING

Mr. DEWINE. Mr. President, we are all well aware of the horrible devastation that has been caused by the four hurricanes that have hit the United States and have hit other countries so far this season: Charley, Frances, Ivan, and Jeanne. We have seen pictures of the damaged homes. We have seen the victims interviewed on TV. We have seen the floodwaters that have drowned many towns and villages.

My home State of Ohio has also suffered damage from these storms, damage that has warranted the classification of 30 of our counties as Federal disaster areas. These counties include: Athens, Belmont, Carroll, Columbiana, Gallia, Guernsey, Harrison, Jefferson, Mahoning, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Stark, Trumbull, Tuscarawas, Vinton, and Washington.

Last Friday, when I was home, it was my privilege to tour some of the flooded areas in Ohio and to talk to some of the people who are victims. I must say, while I have seen floods before, been along the Ohio Valley before, and seen what floods can do, I was, again, overwhelmed at what I saw. Some areas looked like a war zone.

The power of water never ceases to amaze me, whether it is the Ohio River when it comes up, or in creeks and streams a long way from the Ohio River when flash floods come up and do unbelievable damage and homes are literally ripped apart and trailers are ripped apart. I saw this when I was home.

At its highest, the floodwaters in Marietta, along the Ohio River, covered the first floor of many buildings. From this picture, a photo taken by the Washington County Sheriff's Office in Marietta, you can get some idea of what Marietta looked like when the river came up—absolutely unbelievable. People used boats to get around as they surveyed what they lost and what they could possibly save.

In other areas, trucks were washed away, mobile homes stood on their sides, and debris was everywhere. There was garbage strewn clear up into the trees.

Many businesses were, of course, forced to close, as owners went out to salvage what was left. As you can see from this picture, it did not look like this Wendy's restaurant—after this picture was taken—would be serving Wendy's hamburgers very soon.

But we do know that people are resilient. When I got there, it had been 5 or 6 days since the peak of the water, which you are seeing in these pictures. People were already getting back into business. Businesses were opening. People are unbelievably resilient.

This picture of Wendy's is absolutely unbelievable at the height of the flood.

Belmont County and the village of Neffs, which I visited, experienced severe flash flooding—a different kind of water damage, a different type of flooding, but unbelievably devastating as well. I toured Neffs, and water was freely flowing in and out of houses as the long cleanup process began—again, another picture of what this looked like, not when I was there, but during the height of the storm.

Twenty Ohio counties are like this—20. Already, nearly 4,000 individuals in the disaster-declared counties have called to apply for assistance.

Part of the tragedy of the floods is that so many residents simply did not have the warning that they needed.

Senator VOINOVICH and I and Congressman STRICKLAND and Congressman NEY and others are asking the National Weather Service to give us an explanation for what happened because when I was in Marietta a number of people told us that night they received a flood warning, but then the National Weather Service took that warning off. People went to bed. Yet during the night the flood warning was put back on. Many businesspeople and homeowners, for example, whom I talked to simply were not prepared. The floodwater came up during the night and did tremendous damage. People were not prepared for that.

So our question to the Weather Service is, why was that mistake made? Why was the flood warning on, then off, and then back on again? It was very misleading to people, and we want to know exactly what the explanation is. We have written to the Weather Service and we want a full explanation about that.

One of the most heartening things, though—you see this, and I have seen it before in Ohio; I know we have seen it across the country—is the number of people who help neighbors, who come out and do unbelievable work. They come out of nowhere and volunteer. I saw amazing displays of human kindness, generosity of the human spirit, neighbors helping each other get their lives back together. As they have done so many times before, Ohioans have pulled together as part of a community effort to reclaim their houses and businesses from the floodwaters.

I met a woman, for example, who is originally from Neffs, the town I was talking about, but now lives in Columbus and works at Ohio State. She asked for 4 days of vacation time—it was granted—so she could go back home, back to Neffs and help with the cleanup. She joined several other volunteers to help serve meals in the basement of one of the local churches, a place I had the occasion to visit.

It is that kind of spirit we see. This is one of the countless acts of generosity exhibited by people that I saw.

I saw a business, for example, in Marietta. The woman who was cleaning up—it was horrible; all her inventory had mud all over it; it was a mess—she said: Senator, come in the back. I want to show you something. I went back with her, and clear in the back through her business, back in the back alley. And she said: Look. There were people there who came in to volunteer, and they had an assembly line, and they were washing the inventory she had, these little toys, these little different things.

It was an amazing thing to see. These were all volunteers, all people who came in. They had some adults and some younger kids who were in there who were volunteering and helping her.

I saw another man in Marietta. He was cleaning up his business. He took me back and showed me where there was a piano. He said: You will not believe this story. He said: The flood kept coming up and coming up and coming up. We were up in the second story of our house. He said: I kept taking pictures and posting them on the Internet. All of a sudden my phone rang. I couldn't figure out who was calling me.

He said the person who called on the phone said: Are you—and the person said his name. He answered: Yes, this is such-and-such business.

He said: We are outside.

He said: You can't be outside. There is nothing but water outside.

He said: Well, look outside.

So he went to his window on the second story and there were a couple guys in a row boat. And they said: We are here to help you. And they had come in from the countryside, rode their boat into Marietta, and they had some cement blocks they had brought because they had heard that his piano was getting soaked and he couldn't do anything about it. It was getting ruined. So they brought that boat in, landed the boat in his place of business, tied the boat up, unloaded the cement blocks, lifted the piano up, put the cement blocks under the piano so the piano would not get wet.

He said: I had never seen those guys before. They left and I still don't know who they are. But I had tears coming out of my eyes when they left because I couldn't believe it, that someone would do that for me.

That is the type of thing you see, in spite of all the horror, replicated not only in Ohio but across this country.

I must also say, I was so impressed by the work of the men and women of the Ohio National Guard—they always do a great job—the Ohio Emergency Management Agency, the great professionals who are always there; FEMA; the county directors, their staffs, countless other volunteers who have worked tirelessly to help bring food, clean water to the area. They have already distributed almost $5 million in disaster assistance and continue to work as we speak tonight. We appreciate their efforts and thank them.

It is going to take months before these flood-ravaged communities return to normal. We must make sure to employ every resource available to make sure Ohioans can get back in their homes and back to their jobs, the day-to-day business, as soon as possible. It has been rough going for so many different people in Ohio.

I, again, thank all those who have volunteered and assisted in the cleanup and rebuilding. I know what I saw in Ohio with our flood damage has been replicated in so many other States, not just in this country but in other countries. There are many other people hurting.

I came to the floor tonight to share with my colleagues what I saw as I traveled around my State last week. It is so heartening to see how people fight back. I know this Congress will continue to be of assistance and of help to them as we reach out to all the victims of the hurricanes and we give them a hand up and help them through this crisis.

My experience has been that in the immediate days after the hurricanes and flooding, it is always tough. But the weeks and months even beyond that are tough as well. We are not going to forget them. I know my colleagues in the Senate will not forget them, and the Federal Government will not forget them. We need to let them know we are still going to be there with them through the Federal agencies and be of assistance.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Oklahoma.

COMMERCIAL SPACE LAUNCH ACT

Mr. INHOFE. Mr. President, I have had the honor for almost 50 years now of being active in aviation. I have had occasion to fly almost every kind of airplane that is up there, and it is an experience that not many people get a chance to have in their normal lives. Something is on the horizon right now that is an opportunity for people to do, things that they never dreamed possible; that is, to feel and to experience the thrill of flight into space.

Yesterday marked a very significant day in history. Today, the SpaceShipOne, designed by Burt Rutan, who happens to be a friend of mine, and piloted by Mike Melvill, who is a 62-year-old pilot, made the first flight of the two required flights to claim the $10 million Ansari X-Prize for carrying three people, or an equivalent weight, to space twice within 2 weeks.

The brilliant concept of the Ansari X Prize exemplifies the excellence that can be achieved through an incentivized approach rather than a governmental mandate of punitive approach. To incentivize and safely get government out of the way is the philosophy of the Commercial Space

Launch Amendments Act of 2004, H.R. 3752. Tempt not only the pocketbook but also the vision of anyone who has the creativity and imagination to pursue it.

Space programs originally sprang to life in the face of international competition. The realities of the cold war stimulated creativity, and innovation in a dramatic new way. This government and NASA responded with successes that dazzled even the most optimistic dreamer.

Since then, space advances have gone through the same channels with the same motivation, but without the urgency and vision of ''The Space Race.''

The Ansari X Prize is a refreshing new appeal to anyone who has the faith and vision to respond. It is an appeal that looks for the likes of Charles Lindberg—people who will think within the restraints of practicality but without the restraints of a rutted concept of how it is supposed to be done.

I am grateful that this competition is doing what it was designed to do: spur a budding industry in commercial human space flight. Today's flight paves the way for making space flight available to the public, a long-time dream of many. Just imagine, ordinary people will be able to experience the thrill of flying in space. But despite the existing technology to make this dream possible, there are some obstacles.

One such barrier stems from this body. The text of my bill, S. 2772, the Space CHASE Act, should pass the Senate right now as an amendment to H.R. 3752. H.R. 3752 readily passed the House of Representatives in March by a vote of 402 to 1. The House of Representatives and the Federal Aviation Administration have agreed to the improvements embodied in my Space CHASE Act, so it is better than the bill that passed the House by 402 to 1. However, some Democrats are blocking this legislation that is vital to the fledgling commercial space industry.

The legislation would define FAA licensing rules for suborbital flights, as well as require passengers to sign waivers of legal liability. Without such a waiver, the investors fear excessive lawsuits by trial lawyers. Without investors, many of these fledgling entrepreneurial space companies will not be able to get off the ground, both literally and figuratively.

Unfortunately, some Democrats want to cater to the trial lawyers who want the ability to file frivolous lawsuits and collect millions of dollars should something go wrong on a flight. Perhaps even more frustrating is that they will not explain exactly why they are objecting.

Aviation Week is a magazine I have subscribed to for many years. It is a publication I have grown to respect. I have read it with frequency over the years. It has an excellent article in its September 27, 2004, edition. It states:

One or more Democrats on the Senate Commerce Committee are holding up this bill, and, maddeningly, no one will say publicly what they object to.

They are holding it up, and they won't say why they are holding it up.

If they do not pass it, part of their legacy may be that of having strangled an infant industry in the crib.

I compliment the chairman of the committee, Senator MCCAIN. He has been very helpful. But there are some Democrats we can't identify, as the Aviation Week publication states.

I ask unanimous consent that these four pages of Aviation Week be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. INHOFE. Mr. President, I also want to call to the attention of the Senate a letter from nine discrete enterprises that are on the cutting edge of this burgeoning industry. They all endorse the text of my Space CHASE Act and call for the immediate passage of my legislation as a substitute language for a thus-perfected H.R. 3752.

I commend these entrepreneurs by name: Jeff Greason, XCOR Aerospace; John Carmack, Armadilla Aerospace; Elon Musk, Space X; George French, Rocketplane, Ltd.; Eric Anderson, Space Adventures; Honorable Andrea Seastrand, California Space Authority; Bill Khourie, Oklahoma Space Industry Development Authority; Brian Chase, Space Foundation; Greg Allison, Chairman, Executive Committee, National Space Society.

I ask unanimous consent that their letter also be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. INHOFE. Mr. President, it is a shame when we pander to trial lawyers and allow them to kill an industry before it is able to get off the ground.

I urge these Democrats to stop the obstruction and pass this important legislation that will let the American people have the freedom to experience space, the final frontier.

EXHIBIT 1

[From Aviation Week & Space Technology, September, 2004]

COMMERCIAL SPACE—AT A TIPPING POINT

''I have such faith in the private sector that I've dreamed of the day that government monopoly would be replaced by commercialization or at least some form of partnership.'' Those words, on the prospects of private manned spacecraft and industrial space stations, were penned by President Ronald Reagan in a letter to Aviation Week & Space Technology's publisher in March 1985.

It has taken two decades, but now there are tangible indications that such a dream could indeed become a reality. Many of them are detailed in this week's cover story (see p. 54) and in the lead article of our World News and Analysis section (see p. 26) But one of the most visible indications is yet to come.

This week, Scaled Composites' SpaceShipOne is set to make the first of the two required flights to claim the $10 million Ansari X-Prize far hauling three people (or an equivalent mass) to the edge of space twice within two weeks. The prize could be won as early as next week. Designer Burt Rutan and/or the team's backer, Microsoft billionaire Paul Allen, may even climb in for the ride.

Should Rutan's crew stumble, there are others fast on their heels. A half-dozen or more serious competitors have spent many times the prize money in developing their vehicles. That is exactly what Peter Diamandis had in mind when he organized the X-Prize Foundation a decade ago to seed a private human spaceflight industry, and our hat is off to him.

Dating even further back, there were entrepreneurs saying that making human spaceflight both reliable and affordable was possible with existing technology. The problems, they said, were not technical but financial and political, even psychological.

Unintentionally, NASA made it hard for these pioneers to attract capital. First, the agency was a competitor because it operated its own expensive vehicle, the space shuttle. Then, when NASA tried to develop a new, cheaper-to-operate reusable vehicle, it opted to include challenging cutting-edge technologies, making program execution difficult and expensive. As one might expect, when entrepreneurs went looking on Wall Street for money for their simpler projects, they were rebuffed by potential investors who believed human spaceflight was inherently costly, dangerous and prone to failure.

On top of that was a chicken-and-egg problem of economics. To drastically lower the costs of spaceflight, a vehicle needs to fly frequently. But to find enough customers to fly frequently, one needs to have low prices, and that requires low costs. The solution seemed to lie in new markets, and the one many believed could jump-start the private sector was ''space tourism.''

When the Russians began selling spare seats on Soyuz spacecraft to dot.com zillionaires and rock stars, it became harder to posit the economic impossibility of space tourism. But it was the first suborbital flight of SpaceShipOne to 100 km. altitude, back in June, that removed the giggle factor from discussions of space tourism. Pictures of pilot Mike Melvill sitting atop his privately financed craft and waving victoriously made the front pages of newspapers aroung the world.

Meanwhile, things had changed in the government. Many in Congress ''got religion'' on commercial space (more about that later). NASA began working seriously with startups such as Bigelow Aerospace on manned spacecraft. And Adminstrator Sean O'Keefe bought into the prize paradigm, seeing to it that the agency itself would sponsor some of these fledgling enterprises.

This week, Robert T. Bigelow will make some news on that front. He plans to announce a $50-million ''America's Space Prize,'' an orbital analog to the X-Prize. To be sure, taking humans into orbit and bringing them back safely is orders of magnitude more difficult than taking them on a suborbital ride, but don't dismiss the salutary effects of $50 million.

Prizes have an important and glorious place in the history of flight, dating to the days of the Wrights, Curtiss and Santos-Dumont. The revolution in public understanding of the practicality and possibilities of aviation that Charles A. Lindbergh wrought in laying claim to the $25,000 Orteig Prize in 1927 is widely seen as having been a necessary ingredient for the growth of an airline industry.

We night now be poised at a tipping point in public understanding of the commercial possibilities of human spaceflight. But if the X -Prize is to be remembered as something more than a stunt, there must be a legal

framework in place for market-based spaceflight to grow.

There is a measure pending in Congress that would go a long way to providing that framework—the Commercial Space Launch Amendments Act of 2004 (H.R. 3752)—but it has been stalled in the Senate for months. It would spell but FAA licensing rules for suborbital flights. Most critically, the bill would make it clear that paying passengers are ''spaceflight participants'' who understand the risks. And it would require them to sign waivers of legal liability. Without this provision, the prospect of relatives of passengers suing and collecting millions in damages following an accident would likely scare off investors. And without outside investors, many of today's space entrepreneurs will go out of business in the not-too-distant future.

This bill is not some wild-eyed libertarian scheme. It passed the House in March by a vote of 402–1. Science Committee Chairman Sherwood Boehlert of New York, perhaps the ''greenest'' Republican in the House, even went along with a provision that would exempt these launchers from some environmental regulations. Admitting he first thought the legislation ''flighty,'' Boehlert says he came to see it as essential: ''This is about a lot more than 'joy rides' in space, although there's nothing wrong with such an enterprise. This is about the future of the U.S. aerospace industry.''

One or more Democrats on the Senate Commerce Committee are holding up this bill, and, maddeningly, no one will say publicly what they object to. Democrats say they want the job growth the Bush administration has failed to deliver. If they do, they ought to pass this bill. If they do not pass it, part of their legacy may be that of having strangled an infant industry in the crib.

SHOW TIME

(By Craig Covault)

The Scaled Composites SpaceShipOne suborbital vehicle that will attempt this week and next to twice rocket above 100 km. to claim the $10-million Ansari X-Prize highlights a major new wave of commercial space activity taking stride into early October.

The initiatives include the planned announcement this week of a new, much larger $50-million ''America's Space Prize'' to spur private development of an orbital space transport that by 2010 could carry 5–7 astronauts to an orbiting station.

The new America's Space Prize is being initiated by millionaire developer Robert T. Bigelow who wants a low-cost manned transport to take crews to Bigelow Aerospace inflatable space modules under development in North Las Vegas, Nev. (see cover and p. 54).

Until recently, individual commercial space ''wannabes'' struggled for technical competence and respectability.

But a more business-like approach by commercial space company managers coupled with their innovative use of technology is enabling them to capture bigger government contracts, such as the $42 million just awarded by the Defense Advanced Research Projects Agency (Darpa) for quick reaction launch developments.

The new commercial companies are also increasingly ''breaking down the hidebound bureaucracies'' of NASA and the larger aerospace companies, says Courtney Stadd, NASA's former chief of staff. He says commercial space is beginning to do this with a more diverse, and increasingly capable base of dynamic new companies, staffed with younger engineers more representative of the future than the past.

They are forming in effect ''a new national incubator for technology and talent'' that aerospace industry can draw upon for major innovation, says Stadd, who has long been affiliated with commercial space start-ups.

Private/commercial ventures like SpaceShipOne carry an inherent high-risk of failure, including the risk of a fatal accident, But the new commercial space industry is far more steeled to accept and recover from failure than it was earlier, Stadd said.

Several new commercial space milestones have just occurred or will occur by early October. They include:

SpaceShipOne X-Prize flights. The flights to capture the X-Prize are set for Sept. 29 and Oct. 4. at Mojave, Calif. Propulsion subcontractor SpaceDev of Poway, Calif., itself a small commercial space company, has delivered to the Burt Rutan team three new SpaceShipOne systems carrying more synthetic rubber fuel and nitrous oxide oxidizer than used during the demonstration flight June 21 (AWST June 28, p. 28).

This is to provide more performance earlier in the profile when the vehicle is in the lower, more dense, atmospheric phase of flight. More performance at lower altitude is necessary so the engine can more assuredly propel the slightly heavier X-Prize configured vehicle higher than 62 mi. altitude.

Canadian Da Vinci X-Prize attempt. The Canadian Da Vinci Project plans to make its first try for the X-Prize with launch of a manned rocket from a balloon 80,000 ft. over Kindersley, Saskatchewan, as early as Oct. 2. SpaceDev's ''Dream Chaser'' manned vehicle. In a major new development, SpaceDev has just signed an agreement with the NASA Ames Research Center for technology collaboration in the design of what initially would be a new higher-performance commercial manned suborbital vehicle capable of carrying 3–5 people to about 100 mi. altitude. This compares with about 62 mi. for the 1–3-person SpaceShipOne.

The new vehicle will be designed using the basic aerodynamic shape of the Orbital Sciences/U.S Air Force X–34 demonstrator that never flew before cancellation. The X–34 concept, but not the original hardware, will be redesigned for manned vertical launch on suborbital flights as early as 2008, depending upon the flow of commercial or government funding for the program, said Jim Benson, SpaceDev chairman and CEO. SpaceDev and Ames will work on potential utilization of the vehicle by NASA, USAF or the private sector. Benson's ultimate objective is to scale the Dream Chaser design to an orbital vehicle.

SpaceX Falcon 1 to Vandenberg. The first privately developed low-cost Falcon 1 unmanned orbital launch vehicle has been completed by SpaceX at its El Segundo plant and is to be taken late this week or early next to its launch pad at Vandenberg AFB, Calif. This major milestone could lead to the first launch by late November, if a static firing on the pad can be completed before the Western Range closes for upgrades throughout December, says Elon Musk, CEO of Space Exploration Technologies (SpaceX).

Musk told Aviation Week & Space Technology he now has four firm contracts with deposits for Falcon missions, including one just signed with the Malaysian Space Agency. Two others are from the U.S. government and one from Bigelow Aerospace for launch of a Genesis one-third scale inflatable module.

Commercial Zero-G flights. Amerijet International of Fort Lauderdale, Fla., has just become the first commercial airline ever to receive FAA certification for commercial parabolic weightless flight operations. The flights are to begin Oct. 9, at about $3,000 per person. The project will use a Boeing 727–200 to conduct parabolic tourist flights out of the Fort Lauderdale/Hollywood, Fla., International Airport in connection with the Zero-6 Corp.

NASA Commercial Transportation Call. NASA has just issued a comprehensive ''request for information'' sounding out the aerospace industry for new concepts in commercial space transportation services related to the agency's new exploration initiative. It is the single most comprehensive call for commercial space transportation concepts ever made by the agency. Responses, on which new contracting can be based, are due back next September.

Darpa/USAF Rapid Launch Awards. Nearly $42 million in development contracts are just being awarded to four companies, mostly commercial space start-ups, as Phase II in the Darpa/USAF Falcon Small Launch Vehicle (SLV) program. The effort is designed to lead to a much more rapid launch capability for 1,000-lb. critical U.S. military satellites for less than $5 million per mission.

Except for Lockheed Martin, which received $11.6 million, all of the winners are small start-up companies. Lockheed's concept builds on its Michoud, La., development of a hybrid powered system burning nontoxic fuel and liquid oxygen (AWST Feb. 3, 2003, p. 54).

There is a range of innovative launch concepts among the commercial start-up companies that won, but only AirLaunch would deploy its two-stage ''QuickReach'' liquid propellant booster from a C–17 that could be staged from literally any friendly airfield around the world.

It won $11.3 million to explore the concept that could provide great launch flexibility. Several small commercial space companies including Space Vector Inc. of Chatsworth, Calif., and Universal Space Lines of Newport Beach, Calif., are part of the AirLaunch team.

Another winner was Microcosm of El Segundo, Calif., that is developing the simple liquid oxygen/kerosene pressure-fed ''Scorpius'' engine system. Microcosm won $10.4 million to further develop its 52-ft.-long Sprite launcher using a six-barrel cluster of the engines to provide 120,000 lb. of liftoff thrust.

SpaceX, also based in El Segundo, won $8 million for its Falcon launcher. The project, by coincidence, has the same name as the overall Air Force/Darpa program.

All of the selected companies are to conduct 10-month preliminary design studies toward a downselect to one or more competitors that will perform an actual launch in 2007.

But since SpaceX is more advanced in hardware fabrication than the other competitors, Darpa and USAF have asked it to perform an ''Early Responsive Launch Test'' with a Falcon 1 launch about July 2005. Musk said the objective will be to cut the Falcon's launch pad time by 50%—to just one week.

This Aviation Week & Space Technology editor recently saw the first Falcon flight vehicle in final assembly at the SpaceX plant in El Segundo.

It is being readied this week for the trip to Vandenberg AFB and mounting on its launch pad.

The flight engines have completed their final pre-integration qualification tests at SpaceX test facilities near McGregor, Tex., and development engines and components continue to be tested at the site. Earlier turbopump problems have been solved. But some other engine components, earlier made of aluminum, have been switched to Inconel because of a hairline crack found in one several weeks ago.

The Falcon 1 first stage will likely end up weighing less than its specification weight—a highly positive factor. This is because earlier delays allowed the program enough time to switch a composite interstage for a heavier aluminum structure, saving about 150 lb.

Also switching the overall thrust frame from steel to titanium has saved another 100 lb. These improvements will be especially helpful when the vehicle eventually begins to launch heavier payloads, Musk said.

EXHIBIT 2

SEPTEMBER 21, 2004.

Senator JOHN MCCAIN,
Chair, Committee on Commerce, Science, & Transportation, 241 Russell Building, Washington, DC.
Senator SAM BROWNBACK,
Chair, Subcommittee on Science Technology, & Space, 303 Hart Building, Washington, DC.
Senator ERNEST HOLLINGS,
Ranking Member, Committee on Commerce, Science, & Transportation, 125 Russell Building, Washington, DC.
Senator JOHN BREAUX,
Chair, Subcommittee on Science Technology, & Space, 503 Hart Building, Washington, DC.

DEAR SIRS, we are writing to respectfully urge that the Senate Committee on Commerce, Science and Transportation quickly report out and secure Senate passage of a perfected H.R. 3752, the Commercial Space Launch Amendments Act of 2004.

As you know, the U.S. commercial expendable launch vehicle industry is challenged by a highly competitive international market, and NASA's recent orbital reusable launch vehicle development programs have not been successful. Fortunately, the recent emergence of a suborbital reusable launch vehicle industry demonstrates that American entrepreneurs are bringing new private resources and ideas to bear on the vital goal of advancing U.S. space transportation capabilities and competitiveness, largely to pursue new commercial human spaceflight markets.

The Commercial Space Launch Act of 1984 (CSLA) as amended (49 U.S.C. 70101 et seq.) gives the Secretary of Transportation sole regulatory authority over commercial space transportation, which has been delegated to the FAA's Office of the Associate Administrator for Commercial Space Transportation (ASST). That jurisdiction includes launches of a 'suborbital rocket' on a 'suborbital trajectory,' but unfortunately those terms were never defined in law. Furthermore, the CSLA is silent on the issue of whether such vehicles might carry persons. Therefore, confusion has developed as to whether some of these suborbital RLVs might be regulated as a rocket or an airplane, or worse still, as both. Last summer a joint hearing of the Senate Science, Technology, and Space Subcommittee and the House Space & Aeronautics Subcommittee heard strong and unanimous testimony that this regulatory uncertainty was a real and unnecessary barrier to private investment in, and therefore the success of, this new suborbital RLV industry, and that Congress needed to fill in the ''legislative gap'' in the CSLA.

To address this issue, the House Science Committee crafted H.R. 3752 after holding an additional public hearing, a private forum, and extensive individual consultations with a broad range of interested and disinterested parties. The legislation not only creates the regulatory clarity needed by industry, but strikes an important balance among competing public policy objectives.

For example, the legislation continues the CSLA's priority of protecting the safety of the uninvolved public, and also affirms FAA/AST's authority to set safety-related requirements for crew in these new vehicles. H.R. 3752 and its committee report also directs FAA to promulgate regulations requiring the full disclosure of the safety records of human spaceflight vehicles and their operating companies to all prospective customers, giving them informed consent. (This is very different from the laissez faire approach which existed during the barnstorming days of aviation.)

The bill also creates a new, streamlined experimental permit regime that allows for expedited review of non-revenue flight test of vehicles so that companies can demonstrate safe operating records before proceeding to revenue flight. It should be noted that flights under experimental permits would not be eligible to receive federal indemnification against third party claims, and even during revenue flight the spaceflight participants would not be eligible to receive indemnification.

For all of these reasons, H.R. 3752 was sponsored by the committee's bipartisan leadership, and passed the House of Representatives by the overwhelming vote of 402 to 1 in March of this year.

In recent months, Congressional staff, the FAA, and various industry participants have developed compromise language that would provide greater clarity over regulatory jurisdiction of so-called hybrid suborbital rockets. With these changes, which are attached to this letter, H.R. 3752 is ready for final consideration in and passage by the Committee on Commerce, Science, and Transportation Committee and the full Senate.

We, the undersigned leaders of this industry and supporting public policy organizations, therefore respectfully urge you to support this consensus amendment and send a perfected H.R. 3752 to the Senate floor this month for passage by unanimous consent so it can be reconsidered by the House and enacted into law before the November election.

Truly yours,

Jeff Greason, XCOR Aerospace; Elon Musk, Space X; Eric Anderson, Space Adventures; Bill Khourie, Oklahoma Space Industry Development Authority; Greg Allison, Chairman, Executive Committee National Space Society; John Carmack, Armadillo Aerospace; George French, Rocketplane, Ltd; Hon. Andrea Seastrand, California Space Authority; Brian Chase, Space Foundation.

Mr. INHOFE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROMOTION OF COLONEL ROBERT T. HERBERT

Mr. REID. Mr. President, in our closing tonight, we are going to advance a number of military officers who have been reported out of the Armed Services Committee today.

It was with a special pleasure today that I spoke to Senator LEVIN and he told me that COL Robert T. Herbert had been reported out of the Armed Services Committee. Robert T. Herbert runs my Las Vegas office. Seventy-two percent of the people in the State of Nevada live in the Metropolitan Las Vegas area. He has an extremely important, responsible job for the people of the State of Nevada to make sure that what goes on in Nevada—especially on a Federal level—is something that he is aware of and I am aware of. He does a wonderful job. He is such a good person. Tonight, he will be no longer a Lieutenant Colonel but will become a full Colonel in the Nevada Army National Guard.

My friend, Bob Herbert, grew up as the son of a military man, retired Master Sergeant Robert W. Herbert. Bob, my employee, decided at an early age that he wanted to become a military pilot. So even before he graduated from high school, he joined the Army. Of course, he is well educated. He did graduate from high school. He now has a master's degree from George Washington University. He worked very hard to get that. He graduated from high school in Slinger, WI, and went to basic training, and then on to flight school. He was immediately thereafter assigned to Germany where he flew patrols along the borders between East and West Germany. This, as we all know, were the front lines of the Cold War.

After he was reassigned from Germany, Colonel Herbert completed his undergraduate work at Embry-Riddle Aeronautical University. He then went to test pilot school and became an Army test pilot.

As a test pilot, he flew helicopters which, as we all know, are so important not only in modern military missions but also for important jobs at home, such as fighting fires and the emergency transport of accident victims.

I just finished a telephone conversation with my friend Don Phillips—my friend of longstanding who lives in Lincoln County, NV, in Caliente actually, 145 miles from Las Vegas—and a helicopter took his wife Dorothy to a hospital in Las Vegas where she is very ill. Helicopters are important for all kinds of uses.

All these years, Bob has been moving around from place to place, and he wanted someplace to settle down. One of his fellow test pilots was a man named Randy Sayre who was from Fallon, NV. He told Colonel Herbert what hundreds of thousands of other people have discovered—that Nevada is a great place to live.

So when Bob got out of the Army, he moved to Reno and joined the Nevada Army National Guard. About that time, as a member of the Appropriations Defense Subcommittee, I learned that Bob Herbert was really good. He is someone whom I met. He had connections in the military circles in Nevada. I had heard about Bob, that he was not only good with military matters but also good with numbers.

At my request, he arranged to come to Washington and work in Washington as a fellow with the Brookings Institution. He was assigned to me. During that time, I had the privilege of pinning Bob with his Lieutenant Colonel insignia when he made that rank.

I also grew to depend on his judgment and advice, not just about military matters but about many other

issues. He was able to make decisions and had a lot of common sense.

When his fellowship was finished, he joined my staff here in Washington. He worked on military and veterans affairs, and transportation and technology issues. He came to work here in my Washington office while continuing to serve his Guard unit in Nevada.

As I mentioned earlier, he also earned a master's degree in public administration from George Washington University, my alma mater, working full time when he was doing this.

He worked for me 4 years back here, and I asked him if he would return to Nevada. He is not from Las Vegas. He is from northern Nevada, Reno, but being the good soldier he is, he agreed to do this.

He has done a tremendous job in this very demanding position, and during all this, he continues to fulfill all his duties in the Army National Guard.

Colonel Herbert now has 29 years of service, which you would never believe if you met him because he looks so young. He is the State Army Aviation Officer, meaning he is in charge of all the Army aviation guard in Nevada.

He has more than 7,000 hours as a pilot, and that time is split about half with helicopters and half with airplanes.

In the Nevada Army National Guard, they mostly fly helicopters. They have the OH–58, which is used in counterdrug trafficking and the Blackhawk, which is an air ambulance unit, and the Chinook, which is used for heavy lifting and is especially useful for fighting fires. They also have a KingAir airplane.

We all trust people who work for us. We trust their judgment, and we rely on their experience and skill, but I literally trust Bob Herbert with my life, as he has flown me to various places around the State of Nevada.

I am very proud of this man, the way he represents me, the State of Nevada, and the Senate. I know all Nevadans are proud not only of Colonel Herbert but all the brave men and women who are serving our State and our Nation today.

REMOVAL OF COSPONSORSHIP

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be removed as a cosponsor from amendment No. 3801 to the National Intelligence Reform Act of 2004, S. 2845. There has been a misunderstanding. That is the reason I ask that this request be granted.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

Mr. BIDEN. Mr. President, tomorrow marks the beginning of October, celebrated nationally as National Domestic Violence Awareness Month. Earlier this week, this body unanimously passed a resolution that commemorates National Domestic Violence Awareness Month and renews the Senate's commitment to raise awareness about domestic violence and its devastating impact on families. While the Violence Against Women Act has been law for 10 years, none of us can afford to stop talking about domestic violence and encouraging victims to come forward and seek help.

Throughout the month, cities, organizations, businesses, religious institutions, and many others are organizing events to commemorate National Domestic Violence Awareness Month. For instance, Marie Claire magazine and Liz Claiborne Inc. have joined forces to create ''Its Time to Talk'' Day on October 14 to encourage greater public dialogue about domestic violence. Around the country, media personalities, governmental officials, domestic violence advocates, businesses and the public-at-large will be taking a moment—or more—to talk openly about this ''dirty little secret'' that affects nearly one in three women in this country.

The health care community has designated October 13 as Health Care Cares About Domestic Violence Day to raise awareness, and encourage doctors and nurses to screen for domestic violence while delivering routine and emergency care. On October 7, Marshall's will donate a percentage of that day's sales from all of its stores to organizations fighting domestic violence. Many communities, from Morrisville, VT to Lake Charles, LA, are holding candlelight vigils to remember and honor victims of domestic violence.

I cannot overestimate the importance of these local and national events that spotlight domestic violence and enlist the whole community to get involved. While much progress has been made at the local, State and Federal level to hold batterers accountable with serious consequences and treat victims with dignity, the scourge of domestic violence is far from over. Progress is not mission accomplished.

Tragic statistics reveal the stark truth that we cannot turn our attention away from fighting domestic violence. On average, each day more than three women are murdered by this husbands or boyfriends. Nearly one in three women experience at least one physical assault by a partner during her lifetime. In a recent poll, nine in ten women said that ending domestic violence was their number one priority. One in five adolescent girls becomes a victim of physical or sexual abuse, or both, in a dating relationship. In addition to the incalculable human costs of domestic violence, the Centers for Disease Control and Prevention recently found that violence against women costs our country in excess of $5.8 billion each year.

As resolute police chiefs retire, State task forces reorganize or committed district attorneys are replaced by newly elected leaders, we must ensure that the messages, protocols, policies, and dialogues fostered by the Violence Against Women Act become institutionalized across the country. We need to usher the Act into the 21st century and implement it with the next generation—recent police academy graduates who want to be trained on handling family violence, newly elected state legislators who want to update State laws on stalking, and the next generation of children who must be taught that abuse will not be tolerated.

Next year the Senate will have the opportunity to reauthorize the Violence Against Women Act which may make improvements to core programs, tighten criminal penalties and create new solutions to challenges facing battered women. Some of the initiatives suggested include school-based programs to treat the millions of children who witness domestic violence, home visitation programs to prevent family violence, targeted training and education about domestic violence for health professionals, and greater transitional housing resources. I look forward to working with my colleagues to craft a comprehensive and balanced Violence Against Women Act of 2005.

In the meantime, I thank the countless men and women working tirelessly in their hometowns to end domestic violence. As I have said before, these advocates, lawyers, service providers, judges, police, nurses, shelter directors and many more, are saving lives, one woman at a time. During National Domestic Violence Awareness Month, we have a chance to acknowledge their hard work, talk loud and clear about domestic violence and support the courageous women escaping violent homes.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I today speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On November 29, 2001 in Santa Rosa, CA, three teenagers were charged with battery, conspiracy and a hate crime for allegedly assaulting a student they believed was gay.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. By passing this legislation and changing current law, we can change hearts and minds as well.

VOTE EXPLANATION

Mr. NELSON of Florida. Mr. President, I was necessarily absent from rollcall vote No. 193. On the motion to table amendment No. 3795, to S. 2845, I

would have voted ''aye.'' This would not change the outcome of the vote.

I was necessarily absent from rollcall vote No. 194. On the motion to table amendment No. 3802, to S. 2845, I would have noted ''no.'' This would not change the outcome of the vote.

HIS EXCELLENCY BADER OMAR AL-DAFA, AMBASSADOR OF QATAR TO THE UNITED STATES

Ms. STABENOW. Mr. President, I would like to take a moment to recognize His Excellency Bader Omar Al-Dafa, a distinguished diplomat, current Ambassador of the State of Qatar to the United States, and alumni of Western Michigan University. In 1975, Ambassador Al-Dafa, earned his bachelor's degree in political science from Western Michigan University, and I am pleased that on October 15, 2004, he will receive the prestigious Alumni Achievement Award in Political Science from Western Michigan University.

Ambassador Al-Dafa's long and distinguished career began in 1976 as a diplomatic attaché at the Ministry of Foreign Affairs, Doha. He has since served as ambassador in numerous posts, most recently as ambassador to the Russian Federation. Prior to this assignment, he served as non-resident ambassador to Finland, Latvia, Lithuania, and Estonia; ambassador to France and non-resident ambassador to Greece; ambassador to Egypt; and ambassador to Spain. While serving in Cairo, Ambassador Al-Dafa was his country's permanent representative to the Arab League. Prior to serving as ambassador to the United States, Ambassador Al-Dafa served as the director of European and American affairs at the Ministry of Foreign Affairs, Doha.

As ambassador to the United States, Bader Omar Al-Dafa's solid understanding of America and over 25 years of diplomatic experience strengthens the warm relationship between our two countries. His efforts to build relationships and foster understanding between America, Qatar and the Arab world through his work and his support for initiatives in the Arab-American community have earned him the respect and admiration of my colleagues in Congress and the citizens of Michigan.

I know my colleagues join me in congratulating Ambassador Al-Dafa for his distinguished service and the prestigious honor that Western Michigan University will confer on him. I extend to him my hopes for continued success and for an enduring relationship between our two countries. I also extend my best wishes to Ambassador Al-Dafa's wife, Awatef Mohamed Al-Dafa, and their three children.

A REAL THREAT TO SATELLITE TELEVISION SERVICE

Mr. LEAHY. Mr. President, in 1998 and 1999 over 2 million families were faced with the prospect of losing the ability to receive one or more of their satellite television network stations. Back then, Congress acted and not only protected access to those stations but also expanded consumer opportunities to receive more programming options.

This time around the story may not have such a happy ending. As we near the end of the session, I grow more concerned that Congress will not have time to pass a reauthorization of the Satellite Home Viewer Act. This is especially disappointing because many members of the other body and many Senators have worked diligently to craft legislative language that would be a boon to public television, the satellite industry, the movie, music and television industries, and to satellite dish owners throughout America.

Indeed, families who own satellite dishes may end up being the big losers if provisions of that act are not extended. Many midwestern and Rocky Mountain States have vast areas where satellite dish owners receive imported network stations such as ABC, NBC, CBS or Fox. Thousands of these families do not have any other choices. They do not have access to TV stations over-the-air because of mountain terrain or distance from the broadcast towers. They do not have access to cable because of the rough terrain or the lack of population density which makes it economically impossible for cable companies to invest. Without access to network stations via satellite, over-the-air, or cable those families will no longer be able to receive national news programming or other network TV programming.

If Congress does not reauthorize provisions of current law by December 31, 2004, hundreds of thousands of households will lose satellite access to network TV stations. Since information about subscribers is proprietary it is difficult for me to tell you exactly how many families will be affected by this, but I assure you it is not a small number.

The Senate Judiciary Committee got its job done in June. We reported a great bill out of Committee without a single amendment and without a single nay vote. That bill does far more than just protect satellite dish owners from losing signals. At the time I pointed out that the new satellite bill ''protects subscribers in every State, expands viewing choices for most dish owners, promotes access to local programming, and increases direct, head-to-head, competition between cable and satellite providers.''

I continued by saying that, ''easily, this bill will benefit 21 million satellite television dish owners throughout the nation, and I am happy to note that over 85,000 of those subscribers are in Vermont.''

The Senate and House Judiciary Committee-reported bills go far beyond protecting what current subscribers receive. The bills allow additional programming via satellite through adoption of the so-call ''significantly viewed'' test now used for cable, but not satellite subscribers. That test means that, in general, if a person in a cable service area that historically received over-the-air TV reception from ''nearby'' stations outside that area, those cable operators could offer those station signals in that person's cable service area. In other words, if you were in an area in which most families in the past had received TV signals using a regular roof-top antenna then you could be offered that same signal TV via cable. By having similar rules, satellite carriers will be able to directly compete with cable providers who already operate under the significantly viewed test. This gives home dish owners more choices of programming.

In the past, Congress got the job done. Congress worked well together in 1998 and 1999 when we developed a major satellite law that transformed the industry by allowing local television stations to be carried by satellite and beamed back down to the local communities served by those stations. This marked the first time that thousands of TV owners were able to get the full complement of local network stations. In 1997 we found a way to avoid cutoffs of satellite TV service to millions of homes and to protect the local affiliate broadcast system. The following year we forged an alliance behind a strong satellite bill to permit local stations to be offered by satellite, thus increasing competition between cable and satellite providers.

We also worked with the Public Broadcasting System so they could offer a national feed as they transitioned to having their local programming beamed up to satellites and then beamed back down to much larger audiences.

Because of those efforts, in Vermont and most other States, dish owners are able to watch their local stations instead of getting signals from distant stations. Such a service allows television watchers to be more easily connected to their communities as well as providing access to necessary emergency signals, news and broadcasts.

I hope we are able to work together to finish this important satellite television bill in the few remaining days of this Congress.

A SOLEMN ANNIVERSARY

Mr. LEVIN. Mr. President, this fall marks a solemn 2nd anniversary of the sniper attacks which terrorized the Washington, DC area and the country for 3 weeks in 2002. In October of that year, John Allen Mohammad, who was sentenced to death, and John Lee Malvo who was sentenced to life imprisonment, indiscriminately shot 13 innocent people, killing ten.

In a settlement that marked victory for the 2002 sniper shooting victims, Bushmaster Firearms, manufacturer of the XM–15 assault rifle used in the attacks, agreed to pay $550,000 in damages for negligence leading to criminal

violence in connection with the shooting spree.

According to reports, Bushmaster continued to sell firearms, including the XM–15 assault rifle used in the sniper shootings, to Bull's Eye Shooter Supply in Tacoma, WA, even after several ATF audits documented the dealer's inability to responsibly account for its inventory of weapons. Reports indicate that 238 guns had gone missing from Bull's Eye's inventory and over 50 had been traced to criminal acts since 1997. As part of the settlement with victims, Bull's Eye has agreed to pay $2 million for its negligence in failing to account for the assault rifle that ended up in the hands of the snipers.

Earlier this year, I voted with 89 of my colleagues to defeat S. 1805, the Protection of Lawful Commerce in Arms Act. That bill would have weakened the legal rights of gun violence victims by terminating a wide range of pending and prospective civil cases against members of the gun industry. The victims of the sniper shootings would have lost their ability to sue Bushmaster Firearms and Bull's Eye Shooter Supply had S. 1805 become law.

For the families and victims impacted by the 2002 sniper attacks, no amount of money will replace their loss and suffering. However, we should continue to pursue sensible gun safety legislation, including reinstating the expired assault weapons ban, to help prevent future gun crimes and improve the security of communities across our Nation.

STUDENT LOAN ABUSE PREVENTION ACT

Mr. DURBIN. Mr. President, I rise to speak on behalf of the Student Loan Abuse Prevention Act. I am pleased to join Senator MURRAY as a cosponsor of the measure. This bill would amend the Higher Education Act of 1965 to end the siphoning of taxpayer dollars to pay exorbitant interest rates on student loans.

A special class of student loans, financed by tax-exempt bonds issued before October 1993, has become a goldmine for the companies that hold them. In the 1980s, Congress created the Guaranteed Student Loan Program, now known as the Federal Family Education Loan Program, or FFELP, to keep college loans accessible and affordable for students. Facing high interest rates, the program guaranteed lenders an interest rate of 9.5 percent to entice them to join the program.

Congress intended to end the special treatment of tax-exempt bonds with the Omnibus Budget Reconciliation Act of 1993. But the way in which the grandfather clause for pre-existing bonds was drafted has had the opposite effect. Two loopholes have allowed student loan companies to profit widely as they recycle old tax exempt bonds to produce new subsidies. The first loophole has extended the life of these bonds. If the lender refinances an old bond, it is still treated as an old bond but with a longer life. The second loophole allows for the volume of loans receiving this excessive subsidy to grow. Even if a tax-exempt bond finances a loan only temporarily, that loan is permanently treated as if it was financed by a tax-exempt bond.

The serial refinancing of loans is an accounting trick that ratchets up the subsidies the Government must pay. In fiscal year 2001, the 9.5 percent guarantee cost American taxpayers approximately $200 million. Now GAO and others have estimated that the cost is nearly five times greater this year. That is a billion dollars in unnecessary subsidies. This windfall has a secondary effect. U.S. News & World Report credits this ''obscure loophole in federal law'' with giving private lenders the financial latitude to lure colleges and universities away from the direct loan process.

Old loans are very much alive and multiplying in plain sight of Federal regulators. Lenders use the 9.5 percent bond funds to finance a set of loans for as little as one day and that new loan earns a 9.5-percent guaranteed return for life. Nelnet, the Nebraska based National Education Loan Network, is the lender that has exploited 9.5 percent loans more aggressively than any other, increasing its 9.5 percent holdings nearly tenfold in the last 18 months.

These subsidies have already consumed a disproportionate share of the Nation's financial dollars. Although loans carrying the 9.5 percent subsidy rate account for no more than 8 percent of the FFEL Program, they have soaked up 78 percent of all subsidies paid to lenders under the program in the current fiscal year. We need to halt and reverse the explosive growth of 9.5-percent loans. Each day of delay allows more loans to be converted to 9.5-percent loans, enriching lenders and undermining the direct loan program.

I urge my colleagues to support the bill to end this outdated subsidy.

BUTLER UNIVERSITY POLICE OFFICER JAMES L. DAVIS

Mr. BAYH. Mr. President, I rise today to pay tribute to and honor the life of James Davis, a Butler University Police Officer who was killed in the line of duty on September 24, 2004. Officer Davis was shot down by a gunman while investigating reports of a suspicious person inside Hinkle Fieldhouse, the campus arena.

On Friday morning, Officer Davis left his patrol car to seek out a man who had refused to exit Hinkle Fieldhouse where students were practicing basketball. A member of Butler's police force since January 2003, Officer Davis, a 31-year-old husband and father of three had his entire life before him when he confronted the suspect, a selfless act that would cost him his life.

Officer Davis graduated from Indiana University in 1995 with a double major in criminal justice and Afro-American studies before entering his career of service. After retiring from the Army as a military policeman, Officer Davis spent a year supervising juvenile offenders as a youth service officer for the Indiana Department of Transportation. He also worked as a drill instructor for troubled youth in a program called Project Impact.

Above all, Officer Davis was a devoted family man who relished his time with loved ones. He dedicated his life to the noblest of causes; his family, his job and keeping others safe. Officer Davis leaves behind his wife, Veleeda and his three young children, Josiah, 8, Jarren, 3, and Jaedyn, who will be two in December. May his children grow up knowing that their father was a brave, hard-working and loving man.

In the wake of his death, friends, neighbors and fellow officers came together to remember and celebrate the life of Officer Davis. Butler Police Chief David Selby described Officer Davis to the Indianapolis Star as ''an outstanding officer . . . and a very good friend to all of us,'' adding that he would be missed by many. Those who knew him well recall Officer Davis' dedication to his job and his efforts to help troubled teens. A friend remembered Officer Davis' strong belief that there were ''no bad children, just children who made bad decisions or came from a bad environment.''

Throughout his career, Officer Davis distinguished himself as a policeman who genuinely cared about the students he was working to protect. Students recall him as someone who could be counted on for a safe ride home from class if he spotted them walking alone in the dark and by fellow officers as a devoted member of their team. His brave and caring actions leave behind an unforgettable impression of the kind of man he was.

It is my sad duty to enter the name of James L. Davis into the United States CONGRESSIONAL RECORD. As Officer Davis rests with God in eternal peace, let us never forget the courage and sacrifice he displayed when he laid down his life on September 24, 2004.

ADDITIONAL STATEMENTS

GEORGE WASHINGTON UNIVERSITY

• Mr. CONRAD. Mr. President, I would like to recognize and congratulate both the George Washington University and its Graduate School of Education and Human Development on achieving centennial milestones this month. George Washington University, which is 183 years old and was created by an act of Congress in 1821, commemorates 100 years of its name change from Columbian University to the George Washington University.

As an alumnus of GW, I am honored to offer congratulations for this internationally recognized institution of higher education.

The university's Grade School of Education and Human Development celebrates 100 years of providing professional development.

The Graduate School of Education and Human Development's partnerships on major national projects have impacted educational reform, increased technological opportunities, and continues to assist and impact the quality of life for people in the United States.

Over the past century, students and alumni of the university have participated in groundbreaking research, championed political causes, and contributed to the community of Washington, DC, and the American people. Over the past 100 years, several high-profile graduates from the fields of government, business, education, and law have obtained degrees from GW.

GW has awarded honorary degrees to eight U.S. Presidents, which included Theodore Roosevelt, Herbert Hoover, Warren Harding, Calvin Coolidge, Harry Truman, John F. Kennedy, Dwight Eisenhower, and Ronald Reagan; eight Supreme Court Justices; and Alexander Graham Bell, just to name a few.

In closing, I would like to congratulate the George Washington University president, Stephen Joel Trachtenberg, and the Graduate School of Education and Human Development dean, Mary Hartwood Futrell. I know if President George Washington was here today, he would be proud that his dream of a national university has not only been realized, but that the university bearing his name will continue to enrich the lives of students from around the globe for centuries to come.●

KATHERINE GOTTLIEB

● Ms. MURKOWSKI. Mr. President, earlier this week the John D. and Catherine T. MacArthur Foundation selected an outstanding Alaskan, Katherine Gottlieb, as one of 23 distinguished Americans who have been designated MacArthur Foundation Fellows for 2004. The MacArthur Fellowship is better known as the ''Genius Award'' and that term aptly describes my friend, Katherine Gottlieb.

Katherine, who is of Aleut and Filipino descent, is the Chief Executive Officer of Southcentral Foundation, which provides primary health care services to some 40,000 Alaska Natives in Anchorage and Southcentral Alaska. Southcentral Foundation is also a partner in the management and operation of the cutting edge Alaska Native Medical Center.

Notwithstanding her lofty title, Katherine is no ''corner office'' executive. Her first job at Southcentral Foundation's headquarters in Anchorage was receptionist. She took the job while undertaking undergraduate work at Alaska Pacific University. She worked her way up the ranks at Southcentral Foundation and went on to earn an MBA at Alaska Pacific University.

But Katherine didn't go to school in Anchorage to prepare for a career in healthcare. By the time she arrived in Anchorage, she had already demonstrated her commitment to the wellbeing of her Native people. Katherine began her healthcare career as a community health aide in her hometown of Seldovia, AK, a community of about 306 people which is not connected by road to the rest of Alaska, much less the continental United States.

In the roadless villages of rural Alaska, community health aides provide the link between the patient and medical resources available in the larger communities. Alaska's Community Health Aides are the front line health providers in our last frontier.

Perhaps it was this formative experience that led Katherine to champion the implementation of a patient centered healthcare delivery model at Southcentral Foundation. The MacArthur Foundation does not officially explain which qualities led them to select a particular nominee as a fellow. They explain that the fellowship is an investment in a person's originality, insight and potential.

But their announcement offers some clues about what led the foundation to select Katherine. The announcement observes that Katherine, by championing this patient centered delivery model, has transformed health care and related health programs in her Alaska Native community.

On February 10, 2003, Dr. Douglas Eby, Southcentral Foundation's Vice President for Medical Services, accepted the Indian Health Service Physician Leader of the Year Award. In his acceptance address he described the genesis of the patient centered delivery system as follows:

> The Native community and Southcentral Foundation asked for a primary care system that was truly centered on the needs and wants of the patient and family, that was built on the foundational strengths and values already present in the Native community, that fully partnered with the patient and family, providing them with the information and tools they needed in their journey toward wellness, that provided optimal quality and access to every single Alaska Native and American Indian eligible for services . . . What we did was to take the best pieces of programs we could find nationally and internationally that supported the vision of the Anchorage Native community and Southcentral Foundation leadership and created our own system of care.
>
> This system allows over 40,000 individuals and families to choose their primary care provider, enter into a long-term trusting relationship with them, have same day access for any reason, and fully partner in their journey toward wellness. It has resulted in these primary care patients decreasing their daytime use of the Urgent Care Center and Emergency Room by about 50%, use of specialty clinics by over 30% and total primary care visits by about 20%. Quality of care measures such as immunization rates, cancer screening rates, depression screening/treatment, chronic pain screening/treatment, etc. have all maintained or significantly improved. Patient satisfaction measures have been very positive. Support systems such as health education, nutrition, and social services have been fully integrated into the system.

Dr. Eby pointed out in that acceptance address that the patient centered health care model would not have been implemented without the visionary leadership of Katherine Gottlieb. In Dr. Eby's words, ''This journey was going to happen. Katherine Gottlieb would accept nothing less.''

The patient centered health care initiative is one of Katherine's many contributions. The MacArthur Foundation also took note of Katherine's creation of the Family Wellness Warriors Initiative, which seeks to revitalize the traditional role of Alaska Native men as protectors and providers, making them less inclined to fall into a pattern of domestic abuse.

They acknowledged Katherine's leadership with respect to the Dena A Coy Residential Treatment Center, which is the first residential facility for pregnant women in the United States focusing on prevention of fetal alcohol disorders and Pathway Home, a transitional living center which addresses the challenges of substance abuse, violence and suicide among Native teenagers.

These are just a few of the 75 medical, behavioral health and community services that moved the MacArthur Foundation to conclude, ''Under Katherine Gottlieb's leadership, the Southcentral Foundation network has demonstrated that high-quality health care and effective preventive services are possible, even in communities facing obstacles of poverty and geographic isolation.''

Alaska has known for many years what a treasure we have in Katherine Gottlieb. Now the Nation knows too. But Katherine is not one to rest on her laurels. An innovator and an entrepreneur, I have no doubt that this recognition will spur Katherine to even greater heights. But one thing is for sure. Katherine Gottlieb will never forget where she came from. She is anchored by the strength of her faith and her values and grounded by her Native heritage.

I join with all Alaskans in congratulating Katherine Gottlieb on this extraordinary accomplishment.●

MESSAGES FROM THE HOUSE

At 9:39 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House disagree to the amendment of the Senate to the bill (H.R. 4520) entitled ''An Act to amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high technology businesses and workers more competitive and productive both at home and abroad'', and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members of the conference on the part of the House:

From the Committee on Ways and Means, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. THOMAS, CRANE, MCCRERY, RANGEL, and LEVIN.

From the Committee on Agriculture, for consideration of title VIII of the House bill, and subtitle B of title XI of the Senate amendment, and modifications committed to conference: Messrs. GOODLATTE, BOEHNER, and STENHOLM.

From the Committee on Education and the Workforce, for consideration of sections 489, 490, 616, 701, and 719 of the Senate amendment, and modifications committed to conference: Messrs. BOEHNER, SAM JOHNSON of Texas, and GEORGE MILLER of California.

From the Committee on Energy and Commerce, for consideration of section 662 and subtitle A of title XI of the Senate amendment, and modifications committed to conference: Messrs. BARTON of Texas, BURR, and WAXMAN.

From the Committee on the Judiciary, for consideration of sections 422, 442, 1111, 1151, and 1161 of the Senate amendment, and modifications committed to conference: Messrs. SENSENBRENNER, SMITH of Texas, and CONYERS.

For consideration of the House bill and Senate amendment, and modifications committed to conference: Mr. DELAY.

ENROLLED JOINT RESOLUTION AND BILL SIGNED

At 12:34 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

H.J. Res. 107. Joint resolution making continuing appropriations for the fiscal year 2005, and for other purposes.

H.R. 4654. An act to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2007, and for other purposes.

The enrolled bill and joint resolution were signed subsequently by the President pro tempore (Mr. STEVENS).

At 12:51 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that pursuant to the request of September 20, 2004, the House returned the act (H.R. 4567) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes to the Senate.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1402. An act to designate the United States courthouse located at the corner of Seventh Street and East Jackson Street in Brownsville, Texas, as the ''Reynoldo G. Garza and Filemon B. Vela United States Courthouse''.

H.R. 3124. An act to designate the facility of the United States Geological Survey and the United States Bureau of Reclamation located at 230 Collins Road, Boise, Idaho, as the ''F.H. Newell Building''.

H.R. 3193. An act to restore second amendment rights in the District of Columbia.

H.R. 4731. An act to amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program.

H.R. 4768. An act to authorize the Secretary of Veterans Affairs to enter into certain major medical facility leases, to authorize that Secretary to transfer real property subject to certain limitations, otherwise to improve management of medical facilities of the Department of Veterans Affairs, and for other purposes.

H.R. 5105. An act to authorize the Board of Regents of the Smithsonian Institution to carry out construction and related activities in support of the collaborative Very Energetic Radiation Imaging Telescope Array System (VERITAS) project on Kitt Peak near Tucson, Arizona.

H.R. 5149. An act to reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2005, and for other purposes.

At 2:29 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5183. An act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

At 6:36 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4231. An act to provide for a pilot program in the Department of Veterans Affairs to improve recruitment and retention of nurses, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 501. Concurrent resolution honoring the life and work of Duke Ellington, recognizing the 30th anniversary of the Duke Ellington School of the Arts, and supporting the annual Duke Ellington Jazz Festival.

The message further announced that pursuant to section 1012(c)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 242b note), the Minority Leader appoints Mr. Thomas M. Priselac of Los Angeles, California, to the Commission on Systemic Interoperability.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 5149. An act to reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2005, and for other purposes.

H.R. 5183. An act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2866. A bill to amend the Farm Security and Rural Investment Act of 2002 to clarify the authority of the Secretary of Agriculture and the Commodity Credit Corporation to enter into memorandums of understanding with a State regarding the collection of approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans.

The following resolution was discharged from the Committee on Rules and Administration, and ordered placed on the calendar:

S. Res. 360. Resolution expressing the sense of the Senate that legislative information shall be publicly available through the Internet.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 4596. An act to amend Public Law 97–435 to extend the authorization for the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University until December 31, 2009.

H.R. 4606. An act to authorize the Secretary of the Interior, acting through the Bureau of Reclamation and in coordination with other Federal, State, and local government agencies, to participate in the funding and implementation of a balanced, long-term groundwater remediation program in California, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 424. A resolution designating October 2004 as ''Protecting Older Americans From Fraud Month''.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2195. A bill to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors.

By Mr. CAMPBELL, from the Committee on Indian Affairs, with amendments:

S. 2843. A bill to make technical corrections to laws relating to Native Americans, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

*Peter Cyril Wyche Flory, of Virginia, to be an Assistant Secretary of Defense.

Air Force nomination of Lt. Gen. Bruce A. Carlson.

Air Force nomination of Maj. Gen. Dennis R. Larsen.

Air Force nomination of Maj. Gen. William M. Fraser III.

Air Force nomination of Lt. Gen. Carrol H. Chandler.

Air Force nomination of Maj. Gen. Stephen G. Wood.

Air Force nomination of Colonel Robert A. Knauff.

Air Force nomination of Col. Dana H. Born.

Air Force nomination of Col. Marshall K. Sabol.

Army nomination of Lt. Gen. Benjamin S. Griffin.

Army nomination of Maj. Gen. Kevin C. Kiley.

Army nomination of Lt. Gen. James J. Lovelace, Jr.

Army nomination of Maj. Gen. James M. Dubik.

Army nomination of Maj. Gen. Robert T. Dail.

Army nomination of Maj. Gen. David F. Melcher.

Army nomination of Maj. Gen. R. Steven Whitcomb.

Army nomination of Lt. Gen. David D. McKiernan.

Army nominations beginning Brig. Gen. James E. Archer and ending Col. Gregory A. Schumacher, which nominations were received by the Senate and appeared in the Congressional Record on September 7, 2004.

Army nomination of Colonel Karl R. Horst.

Army nomination of Col. Dana D. Batey.

Army nomination of Col. Michael B. Cates.

Marine Corps nomination of Maj. Gen. James N. Mattis.

Marine Corps nomination of Lt. Gen. Edward Hanlon, Jr.

Navy nomination of Vice Adm. Kirkland H. Donald.

Navy nomination of Rear Adm. Charles L. Munns.

Navy nomination of Rear Adm. James K. Moran.

Navy nomination of Rear Adm. Joseph A. Sestak, Jr.

Navy nomination of Rear Adm. Mark P. Fitzgerald.

Navy nomination of Vice Adm. Gary Roughead.

Navy nomination of Rear Adm. Lewis W. Crenshaw, Jr.

Navy nomination of Capt. Bruce E. MacDonald.

Navy nomination of Rear Adm. James E. McPherson.

Navy nomination of Capt. Norton C. Joerg.

Navy nomination beginning Captain Gerald R. Beaman and ending Captain Richard B. Wren, which nominations were received by the Senate and appeared in the Congressional Record on March 23, 2004.

Navy nomination of Capt. Christine S. Hunter.

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nomination of Marjorie B. Medina.

Air Force nomination of Henry Lee Einsel, Jr.

Air Force nomination of Robert L. Munson.

Air Force nomination of James Miller.

Air Force nominations beginning Michael M. Harting and ending Joel C. Wright, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Air Force nomination of Dana J. Nelson.

Air Force nomination of William E. Lindsey.

Air Force nomination of Martin S. Fass.

Air Force nomination of Frank A. Posey.

Air Force nomination of Tracey R. *Rockenbach.

Air Force nominations beginning Shannon D. *Hailes and ending Michael F. Lamb, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Air Force nominations beginning Tommy D. *Bouie and ending Jennifer L. *Luce, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Air Force nominations beginning Noel D. Montgomery and ending Alexander V. *Servino, which nominations were received by the Senate and appeared in the Congressional Record on September 13, 2004.

Air Force nominations beginning Kathleen Harrington and ending Paul E. Pirog, which nominations were received by the Senate and appeared in the Congressional Record on September 21, 2004.

Air Force nomination of George J. Krakie.

Air Force nominations beginning David A. Lujan and ending Michael C. Schramm, which nominations were received by the Senate and appeared in the Congressional Record on September 21, 2004.

Air Force nominations beginning Douglas A. Haberman and ending Matthew S. Warner, which nominations were received by the Senate and appeared in the Congressional Record on September 21, 2004.

Air Force nomination of Martin J. Towey.

Army nominations beginning Juan H. Banks and ending Lisa N. Yarbrough, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Army nominations beginning Michael J. Blachura and ending Ronald P. Welch, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nominations beginning Scott A. Ayres and ending Gerald I. Walter, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nominations beginning Mark A. Cosgrove and ending Ronnie J. Westman, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nominations beginning Steven H. Bullock and ending John M. Stang, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nominations beginning Michael N. Albertson and ending William S. Woessner, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nominations beginning John W. Amberg II and ending Richaed G. Zoller, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nominations beginning Gilbert Adams and ending Scott W. Zurschmit, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nominations beginning Celethia M. Abner and ending Cherub I. *Williamson, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nominations beginning Thomas L. *Adams, Jr. and ending Kathryn M. *Zambonicutter, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nomination of Raymond L. Naworol.

Army nomination of Keith A. George.

Army nomination of Curtis L. Beck.

Army nomination of Rex A. Harrison.

Army nominations beginning Kevin Hammond and ending Michael Knippel, which nominations were received by the Senate and appeared in the Congressional Record on September 13, 2004.

Army nominations beginning Jaime B. * Anderson and ending Joseph G. * Williamson, which nominations were received by the Senate and appeared in the Congressional Record on September 13, 2004.

Army nominations beginning James R. Andrews and ending Shanda M. Zugner, which nominations were received by the Senate and appeared in the Congressional Record on September 13, 2004.

Army nominations beginning Michael C. Aaron and ending X4130, which nominations were received by the Senate and appeared in the Congressional Record on September 13, 2004.

Army nominations beginning Christopher W. * Abbott and ending X3181, which nominations were by the Senate and appeared in the Congressional Record on September 13, 2004.

Army nomination of John R. Peloquin.

Marine Corps nomination of John T. Brower.

Marine Corps nomination of John M. Sessoms.

Marine Corps nomination of Randy O. Carter.

Navy nomination beginning Andrew M Archila and ending Richard G Zeber, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Navy nominations beginning Ray A Bailey and ending David A Stroud, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Navy nominations beginning Raymond Alexander and ending Mark A Ziegler, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Navy nominations beginning Steven W Ashton and ending Jason D Zeda, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Navy nominations beginning Tammera L Ackiss and ending Kathleen L Yuhas, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Navy nominations beginning Ik J Ahn and ending Sara B Zimmer, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Navy nominations beginning Kerry L Abramson and ending Andru E Wall, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Navy nomination of Arthur B. Short.

Navy nomination of Scott Drayton.

Navy nomination Cipriano Pineda, Jr.

Navy nominations beginning Michael P Amstutz, Jr. and ending James J Wojtowicz, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Jerry L Alexander and ending Lori C Works, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Patrick L Bennett and ending Ernest C Woodward, Jr., which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Claude W Arnold, Jr. and ending Steven M Wendlin, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Christopher L Bowen and ending William L Wood, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Julie M Alfieri and ending Donna I Yacovoni, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Marianie O Balolong and ending Karen M Wingeart, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Thomas G Alford and ending Kendal T Zamzow, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Ryan D Aaron and ending David G Zook, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Glenn A Jett and ending Matthew Williams, which nominations were received by the Senate and appeared in the Congressional Record on September 13, 2004.

Navy nominations beginning Richard S Adcook and ending Jeffrey G Zeller, which nominations were received by the Senate and appeared in the Congressional Record on September 13, 2004.

Navy nomination of Daniel C Ritenburg.

Navy nomination of Dwayne Banks.

Navy nominations beginning Bill R Davis and ending William H. Speaks, which nominations were received by the Senate and appeared in the Congressional Record on September 21, 2004.

By Mr. HATCH for the Committee on the Judiciary.

Raymond L. Finch, of the Virgin Islands, to be Judge for the District Court of the Virgin Islands for a term of ten years.

Micaela Alvarez, of Texas to be United States District Judge for Southern District of Texas.

Keith Starrett, of Mississippi, to be United States District Judge for the Southern District of Mississippi.

Lisa Godbey Wood, of Georgia, to be United States District Attorney for the Southern District of Georgia for the term of four years.

David E. Nahmias, of Georgia, to be United States Attorney for the Northern District of Georgia for the term of four years.

Richard B. Roper III, of Texas, to be United States Attorney for the Northern District of Texas for the term of four years.

Ricardo H. Hinojosa, of Texas, to be Chair of the United States Sentencing Commission.

Michael O'Neill, of Maryland, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2009.

Ruben Castillo, of Illinois, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2009.

William Sanchez, of Florida, to be Special Counsel of Immigration-Related Unfair Practices for a term of four years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations with an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HAGEL:

S. 2867. A bill to amend title 10, United States Code, to increase the amount of the military death gratuity from $12,000 to $50,000; to the Committee on Armed Services.

By Mr. SARBANES (for himself, Mr. CORZINE, Mrs. CLINTON, Mr. AKAKA, Mr. BINGAMAN, Mr. SCHUMER, Mr. DODD, Mrs. BOXER, and Ms. MIKULSKI):

S. 2868. A bill to amend the Electronic Fund Transfer Act to extend certain consumer protections to international remittance transfers of funds originating in the United States, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. TALENT:

S. 2869. A bill to respond to the illegal production, distribution, and use of methamphetamines in the United States, and for other purposes; to the Committee on the Judiciary.

By Ms. SNOWE:

S. 2870. A bill to authorize the Secretary of Transportation to issue certificates of documentation with appropriate endorsements for employment in the coastwise trade for the vessels LOBSTAR and SARA BELLE; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAHAM of South Carolina (for himself and Mr. CORNYN):

S. 2871. A bill to provide for enhanced criminal penalties for crimes related to slavery and alien smuggling; to the Committee on the Judiciary.

By Mr. BUNNING (for himself and Mr. NELSON of Nebraska):

S. 2872. A bill to amend the Internal Revenue Code of 1986 to provide a credit to certain agriculture-related businesses for the cost of protecting certain chemicals; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2873. A bill to extend the authority of the United States District Court for the Southern District of Iowa to hold court in Rock Island, Illinois; to the Committee on the Judiciary.

By Mr. BIDEN:

S. 2874. A bill to authorize appropriations for international broadcasting operations and capital improvements, and for other purposes; to the Committee on Foreign Relations.

By Mr. BOND:

S. 2875. A bill to extend trade benefits to certain tents imported into the United States; to the Committee on Finance.

By Mrs. HUTCHISON (for herself, Mr. BAYH, and Mr. KENNEDY):

S. 2876. A bill to amend title XVIII of the Social Security Act to eliminate reductions in payments to hospitals for the indirect costs of medical education; to the Committee on Finance.

By Mr. GREGG (for himself, Mr. BOND, and Mr. GRAHAM of South Carolina):

S. 2877. A bill to reduce the special allowance for loans from the proceeds of tax exempt issues, and to provide additional loan forgiveness for teachers who teach mathematics, science, or special education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CAMPBELL:

S. 2878. A bill to amend the Hoopa-Yurok Settlement Act to provide for the acquisition of land for the Yurok Reservation and an increase in economic development beneficial to the Hoopa Valley Tribe and the Yurok Tribe, and for other purposes; to the Committee on Indian Affairs.

By Mr. CAMPBELL:

S. 2879. A bill to restore recognition to the Winnemem Wintu Indian Tribe of California; to the Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LAUTENBERG:

S. Con. Res. 139. A concurrent resolution directing the Architect of the Capitol to establish a temporary exhibit in the rotunda of the Capitol to honor the memory of members of the United States Armed Forces who have lost their lives in Operation Iraqi Freedom and Operation Enduring Freedom; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 540

At the request of Mr. INHOFE, the names of the Senator from North Dakota (Mr. CONRAD), the Senator from Nevada (Mr. ENSIGN), and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 540, a bill to authorize the presentation of gold medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th Century in recognition of the service of those Native Americans to the United States.

S. 641

At the request of Mrs. LINCOLN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 641, a bill to amend title 10, United States Code, to support the Federal Excess Personal Property program of the Forest Service by making it a priority of the Department of Defense to transfer to the Forest Service excess personal property of the Department of Defense that is suitable to be loaned to rural fire departments.

S. 847

At the request of Mr. SMITH, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 847, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low income individuals infected with HIV.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in

commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1635

At the request of Mrs. FEINSTEIN, her name was added as a cosponsor of S. 1635, a bill to amend the Immigration and Nationality Act to ensure the integrity of the L–1 visa for intracompany transferees.

At the request of Mr. GRAHAM of South Carolina, his name was added as a cosponsor of S. 1635, supra.

S. 1831

At the request of Mr. SMITH, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 1831, a bill to amend the Internal Revenue Code of 1986 to expand income averaging to include the trade or business of fishing.

S. 1888

At the request of Mr. SPECTER, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1888, a bill to halt Saudi support for institutions that fund, train, incite, encourage, or in any other way aid and abet terrorism, and to secure full Saudi cooperation in the investigation of terrorist incidents.

S. 2094

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 2094, a bill to protect United States workers from competition of foreign workforces for performance of Federal and State services contracts.

S. 2155

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 2155, a bill to amend the Internal Revenue Code of 1986 to provide for a manufacturer's jobs credit, and for other purposes.

S. 2302

At the request of Mr. CONRAD, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2302, a bill to improve access to physicians in medically underserved areas.

S. 2336

At the request of Mr. REID, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2336, a bill to expand access to preventive health care services and education programs that help reduce unintended pregnancy, reduce infection with sexually transmitted disease, and reduce the number of abortions.

S. 2395

At the request of Mr. CONRAD, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Vermont (Mr. JEFFORDS) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 2395, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes.

S. 2435

At the request of Mr. LEAHY, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 2435, a bill to permit Inspectors General to authorize staff to provide assistance to the National Center for Missing and Exploited Children, and for other purposes.

S. 2437

At the request of Mr. ENSIGN, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 2437, a bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes.

S. 2553

At the request of Mr. DODD, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2553, a bill to amend title XVIII of the Social Security Act to provide for coverage of screening ultrasound for abdominal aortic aneurysms under part B of the medicare program.

S. 2568

At the request of Mr. BIDEN, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Kentucky (Mr. BUNNING), the Senator from North Carolina (Mr. EDWARDS) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 2568, a bill to require the Secretary of the Treasury to mint coins in commemoration of the tercentenary of the birth of Benjamin Franklin, and for other purposes.

S. 2659

At the request of Ms. COLLINS, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 2659, a bill to extend the temporary increase in payments under the medicare program for home health services furnished in a rural area.

S. 2759

At the request of Mr. ROCKEFELLER, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Indiana (Mr. BAYH), the Senator from Washington (Ms. CANTWELL), the Senator from Delaware (Mr. CARPER), the Senator from New York (Mrs. CLINTON), the Senator from Mississippi (Mr. COCHRAN), the Senator from Illinois (Mr. DURBIN), the Senator from California (Mrs. FEINSTEIN), the Senator from Florida (Mr. GRAHAM), the Senator from Iowa (Mr. HARKIN), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Washington (Mrs. MURRAY), the Senator from Nebraska (Mr. NELSON), the Senator from Arkansas (Mr. PRYOR), the Senator from New York (Mr. SCHUMER), the Senator from Michigan (Ms. STABENOW) and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of S. 2759, a bill to amend title XXI of the Social Security Act to modify the rules relating to the availability and method of redistribution of unexpended SCHIP allotments, and for other purposes.

S. 2770

At the request of Mr. DASCHLE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2770, a bill to establish a National Commission on American Indian Trust Holdings.

S. 2789

At the request of Mr. BROWNBACK, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2789, a bill to reauthorize the grant program of the Department of Justice for reentry of offenders into the community, to establish a task force on Federal programs and activities relating to the reentry of offenders into the community, and for other purposes.

S. 2805

At the request of Ms. CANTWELL, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2805, a bill to extend the authorization for the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University.

S. 2834

At the request of Ms. SNOWE, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 2834, a bill to enhance compliance assistance for small business.

S. 2845

At the request of Mr. ROCKEFELLER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

S. 2866

At the request of Mr. DASCHLE, his name was added as a cosponsor of S. 2866, a bill to amend the Farm Security and Rural Investment Act of 2002 to clarify the authority of the Secretary of Agriculture and the Commodity Credit Corporation to enter into memorandums of understanding with a State regarding the collection of approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans.

S.J. RES. 37

At the request of Mr. BROWNBACK, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S.J. Res. 37, a joint resolution to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian Tribes and offer an apology to all Native Peoples on behalf of the United States.

S. CON. RES. 8

At the request of Ms. COLLINS, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. Con. Res. 8, a concurrent resolution designating the second week in may each year as ''National Visiting Nurse Association Week''.

S. CON. RES. 136

At the request of Mr. CONRAD, the names of the Senator from Hawaii (Mr.

INOUYE) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. Con. Res. 136, a concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93.

S. RES. 430

At the request of Mr. HATCH, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. Res. 430, a resolution designating November 2004 as ''National Runaway Prevention Month''.

AMENDMENT NO. 3711

At the request of Mrs. HUTCHISON, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of amendment No. 3711 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3714

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3714 intended to be proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3715

At the request of Mrs. FEINSTEIN, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of amendment No. 3715 intended to be proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3716

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3716 intended to be proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3719

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3719 intended to be proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3756

At the request of Mr. GRAHAM of Florida, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of amendment No. 3756 intended to be proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3765

At the request of Mr. ALLARD, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of amendment No. 3765 intended to be proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3781

At the request of Mr. WARNER, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from Missouri (Mr. TALENT), the Senator from Colorado (Mr. ALLARD), the Senator from North Carolina (Mrs. DOLE), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Texas (Mr. CORNYN), the Senator from Nevada (Mr. ENSIGN) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of amendment No. 3781 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HAGEL:

S. 2867. A bill to amend title 10, United States Code, to increase the amount of the military death gratuity from $12,000 to $50,000; to the Committee on Armed Services.

Mr. HAGEL. Mr. President, I rise today to introduce the ''Military Death Gratuity Improvement Act of 2004.'' This legislation would raise the military death gratuity paid to the families of military personnel killed while on active duty from $12,000 to $50,000. This increase would also be applied retroactively to all service members on active duty who have died since September 11, 2001.

The military death gratuity is money provided within 72 hours to families of service members who are killed while on active duty. These funds assist next-of-kin with their immediate financial needs.

As we face the challenges of the 21st Century, servicemen and women sacrificing for their country in a time of war should be assured that their families will be taken care of. The loss of a loved one is a tremendous emotional hardship for families. Congress must do what it can to ensure that it does not cause devastating financial hardship as well.

This bill will help alleviate some of the financial hardships faced by the families of our brave servicemen and women who give their lives in service to our country. It will send a message to our brave young men and women and their families that their Nation appreciates their service and sacrifice. I urge my colleagues in the Senate to join me in cosponsoring this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2867

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN DEATH GRATUITY PAYABLE WITH RESPECT TO MEMBERS OF THE ARMED FORCES.

(a) AMOUNT OF DEATH GRATUITY.—Section 1478(a) of title 10, United States Code, is amended by striking ''$12,000'' and inserting ''$50,000''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to deaths occurring on or after September 11, 2001.

(c) OFFSET.—The Secretary of Defense shall derive funds for amounts payable during fiscal year 2005 by reason of the amendment made by subsection (a) from amounts available for that fiscal year for travel for personnel assigned to, or employed in, the Office of the Secretary of Defense. Amounts for such purpose shall be transferred to the appropriate accounts of the Department of Defense available for such payments, and amounts so transferred shall not be counted for purposes of any limitation on the amount of transfers of Department of Defense funds during that fiscal year.

By Mr. SARBANES (for himself, Mr. CORZINE, Mrs. CLINTON, Mr. AKAKA, Mr. BINGAMAN, Mr. SCHUMER, Mr. DODD, Mrs. BOXER, and Ms. MIKULSKI):

S. 2868. A bill to amend the Electronic Fund Transfer Act to extend certain consumer protections to international remittance transfers of funds originating in the United States, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SARBANES. Mr. President, I rise today to introduce the International Remittance Consumer Protection Act of 2004. This legislation extends basic consumer protection rights to those who send remittances, and it creates new avenues and incentives for federally insured financial institutions to provide remittance and basic banking services to those who currently do not use such institutions to send remittances.

The practice of sending remittances is not new. Immigrants to the United States traditionally have used remittances to provide financial assistance to family members who remained in their country of origin, but the practice has been largely overlooked; it has not been systematically studied and its implications have not been fully understood. The 2000 census shows that 30 million people in this country are foreign-born—the largest number in our Nation's history and the vast majority of them—22 million—are citizens or legal residents. More than 40 percent of our Nation's foreign-born population immigrated to the United States in the 1990s, and some 15.4 million, or more than half the immigrant community, have come from Latin American countries. Immigrants make a vital contribution to the economic and social life of our Nation.

In a recent study, Sending Money Home: Remittances to Latin America from the US, 2004, the Inter-American

Development Bank (IADB) found that nationwide over 60 percent of Latin American immigrants send remittances. On average, each immigrant sends $240 at a time, 12 times per year. Although these individual transactions are not large, they have constituted an aggregate amount of over $30 billion from America to our Latin American neighbors in this year alone.

In my State of Maryland, we have 175,000 immigrants from Latin America and the vast majority send remittances back home. According to the IADB's study 80 percent of Maryland's immigrants from Latin America send remittances. The typical sender remits an average of $245, 14 times per year—in other words, remittances are a monthly matter, with special gifts for Christmas and Mother's Day.

The subject of remittances has been a major interest of mine for some time. As chairman of the Banking Committee, in February, 2002, during the 107th Congress, I chaired what I understand was the first congressional hearing devoted exclusively to the subject. Dr. Manuel Orozco, a leading researcher on remittances at the Inter-American Dialogue, told the committee that remittances from the U.S. to Latin America had grown substantially—at that point to an estimated $20 billion in 2001—and that between 15 to 20 percent—$3–$4 billion—was being lost in fees and other transaction costs. Since Dr. Orozco testified, remittances to Latin America have grown by $10 billion, 50 percent, in just 3 years, and continued growth is expected.

That an estimated 15 percent to 20 percent of the money sent in remittances is diverted to fees and other transaction costs, often hidden from the remittance sender, is evidence of the abusive practices that exist in the remittance market. There are two primary factors that account for this abuse. First, studies have shown that people who send remittances tend to be relatively low-wage earners, with modest formal education and relatively little experience in dealing with this country's complex system of financial institutions. As a result they are susceptible to unscrupulous actors who can take advantage of them by charging all sorts of exorbitant fees, which are often hidden or misrepresented. The exchange rate conversion is often the mechanism for this abusive practice.

Second, remittances are currently not subject to the requirements set by Federal consumer protection law, including the disclosure of fees. There is no requirement that a remittance transfer provider disclose to the consumer the exchange rate fee that will be applied in the transaction. Without knowing the exchange rate fee that the company is charging, a consumer has little ability to gauge accurately the full cost of sending a remittance. As Sergio Bendixen, a leading researcher of public opinion and behavior, with a specialty among Hispanic consumers, testified before the Banking Committee: ''an overwhelming majority of Hispanic immigrants are unaware that their families in Latin America receive less money than what they send from the United States.'' Further, a remittance sender cannot effectively shop between remittance transfer providers. The lack of basic information limits the amount of competition in this market.

The legislation I am introducing today extends basic consumer rights to those who send remittances. Further, by requiring clear and understandable disclosures to the remittance sender of the cost of the remittance, thus presenting to the consumer the full cost of sending money, the legislation will enhance competition, which in turn should lead to an overall decrease in the cost of sending remittances. As Sergio Bendixen testified to the Banking Committee, ''Full disclosure should unleash market forces that, hopefully, will result in a significant reduction in the cost of sending cash remittances.''

This legislation amends the Electronic Fund Transfer Act (EFTA), which is the primary vehicle for providing basic protections to most persons who engage in electronic transactions, to cover remittances, and to provide the basic rights associated with EFTA to remittance transactions. The two most important components of EFTA are the requirement of full disclosure of fees and the establishment of a process for the resolution of transactional errors. These rights have been an integral part of the regulations that govern our banking infrastructure since EFTA's enactment in 1978. The new legislation will build upon the success of EFTA by extending these basic rights to remittance senders.

The cornerstone of this legislation is the requirement that remittance transfer providers make three key disclosures to their consumers: (1) The total cost of the remittance, represented in a single dollar amount; (2) the total amount of currency that will be sent to the designated recipient, and (3) the promised date of delivery for the remittance. These disclosures follow the core recommendations of the Inter-American Development Bank, which in its publication, Remittances to Latin America and the Caribbean: Goals and Recommendations, states: ''Remittance institutions should disclose in a fully transparent manner, complete information on total costs and transfer conditions, including all commissions and fees, foreign exchange rates applied and execution time.''

The total cost disclosure will include the cost of the exchange rate conversion as well as all up-front fees. This single item will both give consumers a more accurate representation of the cost of the remittance transaction and allow consumers to more effectively compare costs between remittance transfer providers.

In order to calculate the cost of the exchange rate conversion, which is part of the total cost, the legislation requires that the Treasury Department post on its website, on a daily basis, the exchange rate for all currencies. At present the Treasury receives this information on a daily basis, but posts it only on a quarterly basis on the Treasury website. By posting the information daily, the Treasury could create a uniform and credible source for exchange rate information.

To calculate the cost to the consumer of the exchange rate differential, remittance transfer providers will use the difference between the previous business day's exchange rate, as posted on the Treasury website, and the exchange rate that the remittance transfer provider offers. Using the exchange rate posted by the Treasury will ensure that the exchange rate cost is calculated on a uniform basis. When the exchange rate cost is disclosed to the consumer as part of the total cost of the remittance transfer, the consumer will be better able to understand the full cost of the transaction and to shop between different remittance transfer providers.

In addition to fee disclosure requirements, this legislation establishes an error resolution mechanism so that consumers whose remittance transactions experience an error have a fair, open, and expedient process through which they may resolve those errors with the institution that conducted the flawed transaction. This basic right is already afforded to consumers who are protected by EFTA, and now this right will be extended to cover consumers who send remittances as well. Further, the legislation establishes an error resolution mechanism for remittance transfer errors that is responsive to the different types of errors that can occur in a remittance transaction and is reflective of the unique characteristics of the remittance market and its participants.

Under this legislation, a consumer has 1 year from the date that the remittance transfer company promised to deliver the money to notify the company that an error has occurred. The company is then required to resolve the error within 90 days. To resolve the error, the company must either (1) refund the full amount of the remittance that was not properly transferred, (2) resend that amount at no additional cost to the consumer or the designated recipient, or (3) demonstrate to the consumer that there was no error. The Federal Reserve Board is also granted the authority to establish additional remedies for specific situations that cannot be addressed by the three specific remedies that are described in the legislation.

It is urgent that we continue to encourage efforts to bring those who send remittances into the financial mainstream. In his testimony to the Banking Committee, Dr. Orozco pointed out that, ''About two-thirds of immigrants cash their salary checks in check cashing stores that charge exorbitant fees.

Many of these same immigrants then use what remains of their income to send remittances back home. In this common scenario, immigrants are penalized in both receiving and sending their earnings.'' In order to further bank those who are currently unbanked, the legislation that I am introducing today requires that the Federal banking agencies and the National Credit Union Administration provide guidelines to financial institutions regarding the offering of low-cost remittance transfers and no-cost or low-cost basic consumer amounts. This legislation also amends the Federal Credit Union Act to allow credit unions to offer remittances and to cash checks for persons who are in their field of membership but are not credit union members. The guidelines set out in the legislation will help educate the financial services industry about the importance and potential profitability of providing these services.

The sending of remittances in a fair and scrupulous manner is likely to be profitable for the institution that provides the remittance service, and indeed we have begun to see aggressive moves into the remittance market by many of the largest banking institutions. Individuals who send remittances but are currently unbanked represent an expanded and profitable customer base for financial institutions.

By its very nature, remittances is an issue that involves both the United States and other nations. As Professor Susan Martin of Georgetown University, who also testified at our hearing, told the Banking Committee: ''Until relatively recently, researchers and policy makers tended to dismiss the importance of remittances or emphasize only their negative aspects . . . but recent work on remittances show a far more complex and promising picture. . . Experts now recognize that remittances have far greater positive impact on communities in developing countries than previously acknowledged.'' In fact, the size of the remittance market is such that for six Central American and Caribbean nations—Nicaragua, Haiti, El Salvador, Honduras, Guyana and Jamaica—remittances constitute more than 10 percent of GDP; Haiti and Jamaica receive more in remittances than in revenues from trade. The World Bank estimates that Mexico receives more in remittances than it does in foreign direct investment. Reducing the costs of remittances is in the interest of both the United States and the countries that receive them.

Given the growing importance of annual remittance flows, we must work to increase their efficiency. One mechanism for accomplishing this objective, and for increasing the ability of financial institutions to offer remittances is linking our banking infrastructure with the banking infrastructures of other nations. The Federal Reserve operates an international automated clearing house system (ACHi) that is currently linked to seven countries, of which the vast majority are highly developed trading partners that receive relatively low levels of remittances. The ACHi was recently connected to Mexico, however, which will allow financial institutions throughout the United States, especially those institutions of smaller size, to provide remittance services more easily and cheaply to Mexico. This legislation directs the Fed to take into account the importance of remittance flows to other countries as it continues to expand the ACHi system. Linking the ACHi to countries that receive significant remittances has the potential to result in great benefits to consumers who send remittances from America as well as to those who receive the remittances around the world.

Finally, I am acutely aware of the need for better and more broadly available financial literacy and education for all Americans. I am pleased to report that in the last Congress, as part of the reauthorization of the Fair Credit Reporting Act, we established a Presidential Financial Literacy and Education Commission, which is charged with developing a national strategy to promote financial literacy and education. The Act addresses the issue of remittances by including in the commission's work a focus on increasing the ''awareness of the particular financial needs and financial transactions, such as the sending of remittances of consumers who are targeted in multilingual financial literacy and education programs and improve the development and distribution of multilingual financial literacy and education materials.'' The legislation that I am introducing today builds on that framework by instructing the bank and credit union regulators to work with the commission to specifically increase the financial education efforts that target those persons who send remittances.

Millions of Americans send remittances to family members around the world, for a total far exceeding the $30 billion that goes to Latin America alone. Yet almost all of these transactions take place without the basic consumer rights and protections that apply to other electronic transfers. Consumers who send remittances are often immigrants and workers who earn modest wages, who are not aware of the full costs of each remittance, as a practical matter have no way of finding out and, as a consequence, in the aggregate pay billions of dollars in costs and hidden fees. They do not have available to them an established procedure for resolving transactional errors. This legislation rectifies this situation by extending to remittances the basic consumer rights established in EFTA. The bill also contains provisions that, when implemented, will allow more insured financial institutions to provide remittance services—and potentially at lower costs to consumers. The bill contains important provisions to help bring the unbanked—men and women without an account at a bank or credit union—into the financial mainstream. Taken together, these measures will increase transparency, competition and efficiency in the remittance market, while helping to bring more Americans into the financial mainstream.

A broad range of community, civil rights, and consumer groups have endorsed this legislation including the National Council of La Raza, the Mexican American Legal Defense and Educational Fund, the League of United Latin American Citizens, the Leadership Conference on Civil Rights, United Farm Workers of America, the Farmworker Justice Fund, the NAACP, Casa de Maryland, the National Federation of Filipino American Associations, the Asian Pacific American Labor Alliance, National Asian Pacific American Legal Consortium, Consumers Union, Consumer Federation of America, the National Consumer Law Center, the National Community Reinvestment Coalition, the Center for Responsible Lending, U.S. PIRG, ACORN, Woodstock Institute, and the National Association of Consumer Advocates.

I ask unanimous consent that the text of the Intemational Remittance Consumer Protection Act be printed in the RECORD, together with letters in support of the bill from the National Council of La Raza, the Mexican American Legal Defense and Educational Fund, the Leadership Conference on Civil Rights, Casa de Maryland, and a letter from Consumers Union, Consumer Federation of America, National Consumer Law Center, and U.S. PIRG.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2868

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''International Remittance Consumer Protection Act of 2004''.

SEC. 2. TREATMENT OF REMITTANCE TRANSFERS.

(a) IN GENERAL.—The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended—

(1) in section 902(b), by inserting ''and remittance'' after ''electronic fund'';

(2) by redesignating sections 918, 919, 920, and 921 as sections 919, 920, 921, and 922, respectively; and

(3) by inserting after section 917 the following:

''SEC. 918. REMITTANCE TRANSFERS.

''(a) DISCLOSURES REQUIRED FOR REMITTANCE TRANSFERS.—

''(1) IN GENERAL.—Each remittance transfer provider shall make disclosures to consumers, as specified by this section and augmented by regulation of the Board.

''(2) SPECIFIC DISCLOSURES.—In addition to any other disclosures applicable under this title, a remittance transfer provider shall clearly and conspicuously disclose, in writing and in a form that the consumer may keep, to each consumer requesting a remittance transfer—

''(A) at the time at which the consumer makes the request, and prior to the consumer making any payment in connection with the transfer—

''(i) the total amount of currency that will be required to be tendered by the consumer in connection with the remittance transfer;

''(ii) the amount of currency that will be sent to the designated recipient of the remittance transfer, using the values of the currency into which the funds will be exchanged;

''(iii) the total remittance transfer cost, identified as the 'Total Cost'; and

''(iv) an itemization of the charges included in clause (iii), as determined necessary by the Board; and

''(B) at the time at which the consumer makes payment in connection with the remittance transfer, if any—

''(i) a receipt showing—

''(I) the information described in subparagraph (A);

''(II) the promised date of delivery;

''(III) the name and telephone number or address of the designated recipient; and

''(ii) a notice containing—

''(I) information about the rights of the consumer under this section to resolve errors; and

''(II) appropriate contact information for the remittance transfer provider and its State licensing authority and Federal or State regulator, as applicable.

''(3) EXEMPTION AUTHORITY.—The Board may, by rule, and subject to subsection (d)(3), permit a remittance transfer provider—

''(A) to satisfy the requirements of paragraph (2)(A) orally if the transaction is conducted entirely by telephone;

''(B) to satisfy the requirements of paragraph (2)(B) by mailing the documents required under such paragraph to the consumer not later than 1 business day after the date on which the transaction is conducted, if the transaction is conducted entirely by telephone; and

''(C) to satisfy the requirements of subparagraphs (A) and (B) of paragraph (2) with 1 written disclosure, but only to the extent that the information provided in accordance with paragraph (2)(A) is accurate at the time at which payment is made in connection with the subject remittance transfer.

''(b) FOREIGN LANGUAGE DISCLOSURES.—The disclosures required under this section shall be made in English and in the same languages principally used by the remittance transfer provider, or any of its agents, to advertise, solicit, or market, either orally or in writing, at that office, if other than English.

''(c) REMITTANCE TRANSFER ERRORS.—

''(1) ERROR RESOLUTION.—

''(A) IN GENERAL.—If a remittance transfer provider receives oral or written notice from the consumer within 365 days of the promised date of delivery that an error occurred with respect to a remittance transfer, including that the full amount of the funds to be remitted was not made available to the designated recipient in the foreign country, the remittance transfer provider shall resolve the error pursuant to this subsection.

''(B) REMEDIES.—Not later than 90 days after the date of receipt of a notice from the consumer pursuant to subparagraph (A), the remittance transfer provider shall, as applicable to the error and as designated by the consumer—

''(i) refund to the consumer the total amount of funds tendered by the consumer in connection with the remittance transfer which was not properly transmitted;

''(ii) make available to the designated recipient, without additional cost to the designated recipient or to the consumer, the amount appropriate to resolve the error;

''(iii) provide such other remedy, as determined appropriate by rule of the Board for the protection of consumers; or

''(iv) demonstrate to the consumer that there was no error.

''(2) RULES.—The Board shall establish, by rule, clear and appropriate standards for remittance transfer providers with respect to error resolution relating to remittance transfers, to protect consumers from such errors.

''(d) APPLICABILITY OF OTHER PROVISIONS OF LAW.—

''(1) APPLICABILITY OF TITLE 18 AND TITLE 31 PROVISIONS.—A remittance transfer provider may only provide remittance transfers if such provider is in compliance with the requirements of section 5330 of title 31, United States Code, and section 1960 of title 18, United States Code, as applicable.

''(2) APPLICABILITY OF THIS TITLE.—A remittance transfer that is not an electronic fund transfer, as defined in section 903, shall not be subject to any of sections 905 through 913. A remittance transfer that is an electronic fund transfer, as defined in section 903, shall be subject to all provisions of this title that are otherwise applicable to electronic fund transfers under this title.

''(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

''(A) to affect the application to any transaction, to any remittance provider, or to any other person of any of the provisions of subchapter II of chapter 53 of title 31, United States Code, section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b), or chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951–1959), or any regulations promulgated thereunder; or

''(B) to cause any fund transfer that would not otherwise be treated as such under paragraph (2) to be treated as an electronic fund transfer, or as otherwise subject to this title, for the purposes of any of the provisions referred to in subparagraph (A) or any regulations promulgated thereunder.

''(e) PUBLICATION OF EXCHANGE RATES.—The Secretary of the Treasury shall make available to the public in electronic form, not later than noon on each business day, the dollar exchange rate for all foreign currencies, using any methodology that the Secretary determines appropriate, which may include the methodology used pursuant to section 613(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2363(b)).

''(f) AGENTS AND SUBSIDIARIES.—A remittance transfer provider shall be liable for any violation of this section by any agent or subsidiary of that remittance transfer provider.

''(g) DEFINITIONS.—As used in this section—

''(1) the term 'exchange rate fee' means the difference between the total dollar amount transferred, valued at the exchange rate offered by the remittance transfer provider, and the total dollar amount transferred, valued at the exchange rate posted by the Secretary of the Treasury in accordance with subsection (e) on the business day prior to the initiation of the subject remittance transfer;

''(2) the term 'remittance transfer' means the electronic (as defined in section 106(2) of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7006(2))) transfer of funds at the request of a consumer located in any State to a person in another country that is initiated by a remittance transfer provider, whether or not the consumer is an account holder of the remittance transfer provider or whether or not the remittance transfer is also an electronic fund transfer, as defined in section 903;

''(3) the term 'remittance transfer provider' means any person or financial institution that provides remittance transfers on behalf of consumers in the normal course of its business, whether or not the consumer is an account holder of that person or financial institution;

''(4) the term 'State' means any of the several States, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States; and

''(5) the term 'total remittance transfer cost' means the total cost of a remittance transfer expressed in dollars, including all fees charged by the remittance transfer provider, including the exchange rate fee.''.

(b) EFFECT ON STATE LAWS.—Section 919 of the Electronic Fund Transfer Act (12 U.S.C. 1693q) is amended—

(1) in the first sentence, by inserting ''or remittance transfers (as defined in section 918)'' after ''transfers''; and

(2) in the fourth sentence, by inserting '', or remittance transfer providers (as defined in section 918), in the case of remittance transfers,'' after ''financial institutions''.

SEC. 3. FEDERAL CREDIT UNION ACT AMENDMENT.

Paragraph (12) of section 107 of the Federal Credit Union Act (12 U.S.C. 1757(12)) is amended to read as follows:

''(12) in accordance with regulations prescribed by the Board—

''(A) to provide remittance transfers, as defined in section 918(h) of the Electronic Fund Transfer Act, to persons in the field of membership; and

''(B) to cash checks and money orders for persons in the field of membership for a fee;''.

SEC. 4. AUTOMATED CLEARINGHOUSE SYSTEM.

(a) EXPANSION OF SYSTEM.—The Board of Governors of the Federal Reserve System shall work with the Federal reserve banks to expand the use of the automated clearinghouse system for remittance transfers to foreign countries, with a focus on countries that receive significant remittance transfers from the United States, based on—

(1) the number, volume, and sizes of such transfers;

(2) the significance of the volume of such transfers, relative to the external financial flows of the receiving country; and

(3) the feasibility of such an expansion.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, and on April 30 biannually thereafter, the Board of Governors of the Federal Reserve System shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the status of the automated clearinghouse system and its progress in complying with the requirements of this section.

SEC. 5. EXPANSION OF FINANCIAL INSTITUTION PROVISION OF REMITTANCE TRANSFERS.

(a) PROVISION OF GUIDELINES TO INSTITUTIONS.—Each of the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) and the National Credit Union Administration shall provide guidelines to financial institutions under the jurisdiction of the agency regarding the offering of low-cost remittance transfers and no-cost or low-cost basic consumer accounts, as well as agency services to remittance transfer providers.

(b) CONTENT OF GUIDELINES.—Guidelines provided to financial institutions under this section shall include—

(1) information as to the methods of providing remittance transfer services;

(2) the potential economic opportunities in providing low-cost remittance transfers; and

(3) the potential value to financial institutions of broadening their financial bases to include persons that use remittance transfers.

(c) ASSISTANCE TO FINANCIAL LITERACY COMMISSION.—The Secretary of the Treasury and each agency referred to in subsection (a) shall, as part of their duties as members of the Financial Literacy and Education Commission, assist that Commission in improving the financial literacy and education of consumers who send remittances.

SEC. 6. STUDY AND REPORT ON REMITTANCES.

(a) STUDY.—The Comptroller General of the United States shall conduct a study and analysis of the remittance transfer system, including an analysis of its impact on consumers.

(b) AREAS OF CONSIDERATION.—The study conducted under this section shall include, to the extent that information is available—

(1) an estimate of the total amount, in dollars, transmitted from individuals in the United States to other countries, including per country data, historical data, and any available projections concerning future remittance levels;

(2) a comparison of the amount of remittance funds, in total and per country, to the amount of foreign trade, bilateral assistance, and multi-development bank programs involving each of the subject countries;

(3) an analysis of the methods used to remit the funds, with estimates of the amounts remitted through each method and descriptive statistics for each method, such as market share, median transaction size, and cost per transaction, including through—

(A) depository institutions;

(B) postal money orders and other money orders;

(C) automatic teller machines;

(D) wire transfer services; and

(E) personal delivery services;

(4) an analysis of advantages and disadvantages of each remitting method listed in subparagraphs (A) through (E) of paragraph (3);

(5) an analysis of the types and specificity of disclosures made by various types of remittance transaction providers to consumers who send remittances; and

(6) if reliable data are unavailable, recommendations concerning options for Congress to consider to improve the state of information on remittances from the United States.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study conducted under this section.

NATIONAL COUNCIL OF LA RAZA,
Washington, DC, Sept. 30, 2004.

Hon. PAUL SARBANES,
Ranking Member, U.S. Senate Committee on Banking, Housing, and Urban Affairs, Washington, DC.

DEAR SENATOR SARBANES: On behalf of the National Council of La Raza (NCLR), the largest national Hispanic constituency-based organization, I write to express our support for your proposed legislation, the International Remittance Consumer Protection Act of 2004.

As you know very well, the cost of sending remittances to Latin America can be very high—as much as 12 percent per transaction. Lack of competition in the remittance business, which is dominated by a small number of companies that charge higher fees than financial institutions, has kept prices high. In addition to fees, consumers are often subject to poor monetary exchange rates that are not fully disclosed. These exorbitant fees and hidden charges adversely affect many Latinos who send money regularly to Latin America. Many of these remitters are working poor, and nearly half (43 percent) do not have basic banking accounts to conduct simple transactions.

For these reasons, we appreciated the opportunity to meet with your staff and provide input regarding several issues that affect Latino remittance senders. Specifically, we support provisions in your bill that require disclosing upfront all fees and exchange rates to consumers, most of whom are immigrant and/or English language learners (ELL), in languages and formats accessible to them; allow credit unions to offer remittance and check cashing services to nonmembers in the field of membership, which will connect remitters to low-cost financial services facilitating their entry into the financial mainstream; and assist the Federal Financial Literacy Commission in informing remitters of new consumer rights relating to remittance transactions via wire transfers.

Again, thank you for soliciting our feedback on the International Remittance Consumer Protection Act and for your continued support of Latino and immigrant communities. We look forward to working with you to ensure that immigrants have access to information and make fully-informed choices when wiring money to family members abroad. In the end, we hope such legislative measures will provide remitters greater access to mainstream banking tools and services to improve their long-term financial security. We hope to work with you to achieve these goals. Please do not hesitate to contact me if I can be of assistance to you.

Sincerely,

RAUL YZAGUIRRE,
President/CEO.

[Sept. 30, 2004]

MALDEF APPLAUDS SARBANES BILL TO REGULATE REMITTANCES AND PROTECT LATINOS' CONSUMER RIGHTS

(By MALDEF President and General Counsel Ann Marie Tallman)

MALDEF applauds Senator Paul Sarbanes' (D–MD) introduction of the International Remittance Consumer Protection Act of 2004. We believe this bill is the first step in the right direction to improve Latino immigrants' access to banks, and to protect their rights as consumers. This bill is long overdue. MALDEF urges Congress to pass it into law and protect Latino consumer rights.

Senator Sarbanes' International Remittance Consumer Protection Act would bring remittance transfers under the umbrella of protection of U.S. financial services laws. It would make remittance transfers subject to the same set of laws to which any other money transaction in the U.S. is subject. Senator Sarbanes' bill would provide for basic consumer protections for the millions of Latinos and the billions of dollars they send through remittances, by requiring full disclosure of all transfer fees, and a receipt with such full disclosure in the language used by the consumer. It would also provide for error resolutions and reimbursements when family members overseas do not receive the full amount of funds sent. The bill would also: (1) permit credit unions to offer remittance and check cashing services; (2) direct the Federal Reserve Board to provide guidelines to encourage U.S. financial institutions to offer low-cost remittance services and tap into this market; (3) assist the Federal Financial Literacy Commission in improving ''financial literacy'' of consumers who send remittances; and (4) direct the General Accounting Office to study the remittance market and report to Congress with its findings.

Latino immigrants' remittances represent the most important source of ''development aid'' to most Latin American countries. Hard-working Latino immigrants are making essential contributions to the U.S. economy, and U.S. financial institutions have benefited greatly from Latino immigrants' money transfers or ''remittances.'' In keeping with the tradition of American immigrants, more than 60 percent of Latin American born adults generously send money to their extended families in Latin America on a regular basis. The volume is staggering—the International Monetary Fund reported that over $30 billion in remittances are expected to be sent from the United States to Latin America in 2004. The Hispanic Association of Corporate Responsibility reported that Mexico is the second-largest recipient, just behind India, and that nearly 12 percent of remittances worldwide go to Mexico. This market is unregulated, leaving Latinos vulnerable to excessive processing fees imposed by some remittance transfer agencies. As the PEW Hispanic Center has reported, the fees have been inappropriately high, reaching up to 20 percent. Even worse, some Latinos have had their hard-earned money never reach their intended recipients, or portions of their transfers have been skimmed by unscrupulous agents.

For all these reasons, MALDEF thanks Senator Sarbanes for the introduction of the International Remittance Consumer Protection Act, and urges the Congress to enact this essential piece of legislation as soon as possible, in order to protect Latino consumer rights.

LEADERSHIP CONFERENCE ON
CIVIL RIGHTS,
Washington, DC, Sept. 30, 2004.

Hon. PAUL SARBANES,
U.S. Senate,
Washington, DC.

DEAR SENATOR SARBANES: On behalf of the Leadership Conference on Civil Rights (LCCR), the nation's oldest, largest and most diverse civil and human rights coalition, we write to express our strong support for the ''International Remittance Consumer Protection Act of 2004.'' LCCR greatly appreciates your efforts to strengthen the rights of consumers who send money overseas.

This important legislation will, for the first time, bring remittances under the framework of federal consumer protection law, and will encourage transparency and competition in the remittance market. There are three key components to the bill:

First, it establishes clear disclosure requirements for remittance transfer companies, including the requirement that the cost of the exchange rate conversion be included in the total cost of the transfer. This cost is, at present, a hidden fee through which consumers are unwittingly charged excessive and abusive additional costs. The bill also takes an innovate approach to calculating the exchange rate fee, so consumers will be able to shop among different remittance companies with the full knowledge of each company's prices.

Second, it creates an open and fair error resolution process for remittance transfer errors. Currently, consumers who send remittances do not have any guaranteed recourse to recover money if a remittance transfer company fails to deliver on its promises. The bill establishes an error resolution mechanism for remittance transfer errors that is responsive to the different types of errors that can occur in a remittance transaction, and is reflective of the unique characteristics of the remittance market and its participants.

Finally, it requires Federal bank and credit union regulators to encourage federally-insured financial institutions to offer low-cost remittance services and no-cost or low-

cost basic consumer bank accounts. It is estimated that half of all remittance senders do not have a bank account, and only one in ten consumers use banks to send remittances. This requirement on the Federal regulators will further encourage competition in the market and will assist in the critical effort to bank the unbanked.

We greatly appreciate your leadership on this issue, and we look forward to working with you to enact the International Remittance Consumer Protection Act of 2004. If we can be of any help, please feel free to contact Rob Randhava, LCCR Policy Analyst, at (202) 466–6058.

Sincerely,

WADE HENDERSON,
Executive Director.
NANCY ZIRKIN,
Deputy Director.

CASA OF MARYLAND, INC.,
Takoma Park, Md.

Hon. PAUL SARBANES,
U.S. Senate,
Washington, DC.

DEAR SENATOR SARBANES: On behalf of CASA of Maryland, Inc., the largest Latino service and advocacy organization in Maryland, I write to offer strong support for the ''International Remittance Consumer Protection Act of 2004.'' CASA greatly appreciates your efforts to strengthen the rights of consumers who send money overseas.

CASA of Maryland, Inc. provides high quality and affordable remittances services for the Latino community in Maryland. We witness every day the abuses that this legislation will prevent.

This historic legislation brings remittances under the framework of federal consumer protection law, and will encourage transparency and competition in the remittance market. There are three components to the bill:

First, it establishes clear disclosure requirements for remittance transfer companies, including the requirement that the cost of the exchange rate conversion be included in the total cost of the transfer. This cost is, at present, a hidden fee through which consumers are unwittingly charged excessive and abusive additional costs. The bill also takes an innovate approach to calculating the exchange rate fee, so consumers will be able to shop among different remittance companies with the full knowledge of each company's prices.

Second, it creates an open and fair error resolution process for remittance transfer errors. Currently, consumers who send remittances do not have any guaranteed recourse to recover money if a remittance transfer company fails to deliver on its promises. The bill establishes an error resolution mechanism for remittance transfer errors that is responsive to the different types of errors that can occur in a remittance transaction, and is reflective of the unique characteristics of the remittance market and its participants.

Finally, it requires Federal bank and credit union regulators to encourage federally-insured financial institutions to offer low-cost remittance services and no-cost or low-cost basic consumer bank accounts. It is estimated that half of all remittance senders do not have a bank account, and only one in ten consumers use banks to send remittances. This requirement on the Federal regulators will further encourage competition in the market and will assist in the critical effort to bank the unbanked.

On behalf of the immigrant community throughout Maryland, I congratulate you on your leadership with this issue, and we look forward to working with you to enact the International Remittance Consumer Protection Act of 2004. If I can be of any assistance, please feel free to contact me at 301–270–0419.

Sincerely,

GUSTAVO TORRES,
Executive Director.

CONSUMERS UNION
WEST COAST OFFICE,
San Francisco, CA, September 30, 2004.

Senator PAUL SARBANES,
U.S. Senate.

DEAR SENATOR SARBANES: Consumers Union, the nonprofit publisher of Consumer Reports, the Consumer Federation of America, the National Consumer Law Center on behalf of its low income clients, and U.S. PIRG are pleased to express our strong support the International Remittance Consumer Protection Act of 2004, as introduced today. This bill will provide essential information and consumer protections to hardworking people who send money to family members in other countries, very significantly improving the operation of the money transmission marketplace for consumers.

Consumers in the U.S. send a significant dollar volume of international remittances using both financial institutions and non-financial institutions. Money sent to family members outside the U.S. represents hard-earned family income. As the Inter-American Development Bank has said: ''The dramatic growth of international remittances is testimony to the hard work and commitment of migrant workers seeking better lives for themselves and their families.'' Money transmission costs, disclosures, and consumer rights are not an issue that extends beyond recent immigrants. Consumers who are U.S. citizens or longstanding residents also send money to family members outside of the U.S.

U.S consumers sent $13.2 billion to Mexico in 2003, usually in amounts of about $500 per transmission, according to a report by the Pew Hispanic Center. According to the Inter-American Development Bank, U.S. consumers send $38 billion a year to Latin America and the Caribbean, often in amounts of $200 to $300 per transmission. U.S. workers also send money to India, the Philippines, and other countries.

Consumers who transmit funds internationally need the protections that would be provided by the International Remittance Consumer Protection Act of 2004. These protections include plain disclosures before sending the money such as the amount of foreign currency that will actually be sent to the recipient in another country and the total cost of the money transmission. The bill will require that this information to be given before the transaction starts, which is the time that pricing information is most useful to the consumer. Consumers who are informed about the true amount of funds that will be sent, and about the full cost of the money transmission transaction, can shop around much more effectively for the best rates and fees.

The bill will also require that the consumer be given a receipt with this important pricing information and with the date when the money is to be delivered. In addition, the bill will protect persons in the U.S. who send money out of the country if that money is not received in the other country, or if the wrong amount is received. These error resolution provisions are designed specifically for money transmission, but are based on the same principles as existing protections that consumers enjoy when they make payments domestically using an electronic fund transfer from a bank account. Money that is sent to family members outside the country often is essential to the economic survival of those family members. It is important that the funds arrive as promised. This bill would require money transmitters to tell the sender when the money should arrive and would also create a mechanism for a refund if there is a problem with the sending of the funds.

Finally, the bill would encourage more federally insured financial institutions to offer low cost remittance services. Since some consumers who send remittances do not have bank accounts, this could be a way for federally insured financial institutions to serve new markets. According to an extensive study by the Pew Hispanic Center, financial institutions current have only about 3% of the international remittance market.

For these reasons, we are pleased to express our very strong support for the International Remittance Consumer Protection Act of 2004.

Very truly yours,

GAIL HILLEBRAND,
Consumers Union of U.S., Inc.
JEAN ANN FOX,
Consumer Federation of America.
MARGOT SAUNDERS,
National Consumer Law Center.
ED MIERZWINSKY,
U.S. PIRG.

By Mr. GRAHAM of South Carolina (for himself and Mr. CORNYN):

S. 2871. A bill to provide for enhanced criminal penalties for crimes related to slavery and alien smuggling; to the Committee on the Judiciary.

Mr. GRAHAM of South Carolina. Mr. President, as we all know, people from all over the world want to come to America to pursue a better life for themselves and their families.

Unfortunately, however, some people entrust their lives to some very dangerous people in their effort to gain our shores. And, tragically, some people are brought here against their will and kept as human chattel, enslaved in horrible conditions, in the midst of our freedom.

After hearing of the horrible deaths of aliens smuggled into the country and inhumanely abandoned along a Texas highway last year, I wanted to examine whether we are doing all we can to combat these horrible crimes.

In talking with various law enforcement officials and victims, I heard of alien smugglers and traffickers who, through unabashed acts of profiteering, endanger the lives of countless aliens while compromising the integrity of our immigration laws at the same time. Make no mistake, the incentives for human smugglers are enormous. According to the Department of State, human smuggling around the globe generates an estimated $9.5 billion a year.

The commodities involved in this illicit trade are men, women, and children who, for the smuggler, represent substantial profits. The State Department estimates that more than a million women and children are trafficked around the world each year, generally for the purpose of domestic servitude, sweatshop labor, or sexual exploitation. At any given time, the Department estimates that thousands of people are in the smuggling pipeline, with the United States being the primary

target. Smugglers deliver some 50,000 aliens here each year. Alien smuggling is a global problem which requires a systematic and coordinated response. We should do all we can within our criminal laws to combat this terrible problem.

Given the risks associated with these crimes every time they are carried out, the punishment should be appropriate to deter future smuggling or trafficking, and to sufficiently sanction those who are caught. Currently, Title 8 smuggling provisions provide that a person found guilty of alien smuggling where death results is subject to the full range of punishments, including the death penalty. However, if death results from a Title 18 trafficking offense, where the victims are arguably more vulnerable, the defendant is not subjected to the death penalty.

In my opinion, an important component of criminal justice prosecutions is to serve as a deterrent to others who may be disposed to commit a crime. We should ensure that the punishments for smuggling and trafficking crimes are such that the risks of apprehension, prosecution and punishment far outweigh the payday at their delivery point. And, we need to be diligent in making certain that notice of these penalties is conveyed to those who are engaged in this enterprise, up and down the smuggling and trafficking organizational chain. Obviously, in my opinion, the best way to do that is the vigorous prosecution and harsh punishment of those we do catch.

I also want to say a word about the goal of this legislation. Clearly, the smuggling and trafficking problem impacts a host of immigration issues. While we are engaged in the nationwide debate surrounding immigration, we must also ensure that the crimes related to smuggling and trafficking are punished appropriately. We should not wait for the conclusion of debate on the overall issue.

Whatever your feelings are regarding immigration policy, I think everyone can agree that we must not allow otherwise innocent men, women, and children to be abused and killed by those who seek to profit from the desperation of others.

By Mr. BUNNING (for himself and Mr. NELSON of Nebraska):

S. 2872. A bill to amend the Internal Revenue Code of 1986 to provide a credit to certain agriculture-related businesses for the cost of protecting certain chemicals; to the Committee on Finance.

Mr. BUNNING. Mr. President, I rise today to introduce the Agricultural Business Security Investment Tax Credit Act of 2004. I am pleased to join with my colleague from Nebraska, Senator NELSON, In supporting this important legislation.

Security at our agricultural facilities has regrettably become a national concern in the last decade. While we saw agricultural products used for destruction in Oklahoma City in 1995, our concerns have only been compounded by the tragedies of September 11 and the threat of terrorism. The Senate recognized this growing concern when we considered agricultural products in the Federal hazardous materials lists in the USA Patriot Act of 2001.

The American agricultural industry has already recognized some of the dangers on its own and has made significant strides in improving security. Shops throughout the country have started to invest in security measures to keep their chemicals and fertilizers from being used illegally. In 2003, the Agricultural Retailers Association published a web-based, security-vulnerability assessment tool and has cooperated with the USDA to secure farmers and ranchers.

But vulnerability assessments often require as much as $50,000 to $100,000 in capital investment. Meeting these pressing security needs is not feasible for many of the more than 9,000 retail facilities with fertilizer and chemicals stocks in the United States.

That is why it is important we enact this tax credit. The credit would equal 50 percent of the cost of eligible security upgrades at agricultural retail businesses and is capped at $50,000 during any 5 year period. This money can be used for many different security programs, such as employee background checks, locking equipment and even the latest chemical additives that can render fertilizer unfit for illegal purposes.

In my home State of Kentucky, fertilizer theft has become a serious problem and is contributing to a dangerous rise in the illegal drug trade. One common fertilizer, anhydrous ammonia, is stolen in large quantities and is a fundamental part of the production of some forms of methamphetamine. This problem is especially bad in rural areas where police officers in Kentucky are try to curb the problem by distributing locks to farmers and training them to identify the signs of a methamphetamine label.

But these efforts are not enough. This legislation is an important step to ensure that America's agricultural facilities are secure. Without our action, many of the facilities throughout our country would simply be unable to fund security improvements. We cannot risk fertilizers and chemicals falling into the wrong hands and facilitating illegal drug manufacturing or terrorist bomb makers. I hope my colleagues will join Senator NELSON and me in supporting this important legislation.

By Mr. GRASSLEY:

S. 2873. A bill to extend the authority of the United States District Court for the Southern District of Iowa to hold court in Rock Island, Illinois; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2873

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HOLDING OF COURT FOR THE SOUTHERN DISTRICT OF IOWA.

Section 11029 of the 21st Century Department of Justice Appropriations Authorization Act (28 U.S.C. 95 note; Public Law 107–273; 116 Stat. 1836) is amended by striking ''July 1, 2005'' and inserting ''July 1, 2006''.

By Mr. BIDEN:

S. 2874. A bill to authorize appropriations for international broadcasting operations and capital improvements, and for other purposes; to the Committee on Foreign Relations.

Mr. BIDEN. Mr. President, today I introduce legislation to significantly expand our international broadcasting to the Muslim world.

The United States currently broadcasts news and information in over 60 languages to nations in every region of the world. Through both radio and TV, we tell America's story to the world—with news and information programming about not only U.S. Government policy, but life and culture in the United States. We also bring the world to overseas audiences, providing them local, regional and world news that they often may not receive, especially in closed societies. Such broadcasts have been an important foreign policy tool for six decades, since Voice of America broadcasts were initiated during the Second World War. During the Cold War, Radio Free Europe and Radio Liberty broadcasts behind the Iron Curtain were a literal information lifeline for millions trapped under Soviet misrule.

Since the attacks of September 11, 2001, the Broadcasting Board of Governors, the Federal agency responsible for these broadcasts, has significantly expanded our outreach to the Muslim world. At the direction of Congress, it reestablished Radio Free Afghanistan broadcasts, which had been curtailed in the 1990s. It initiated a new Arabic-language service to the Middle East—Radio Sawa—featuring a new format of both music and news and information programming designed to reach younger audiences. It started a new Persian service, Radio Farda, broadcast to Iran. And it launched a satellite television station, Alhurra, which is transmitted across the Arab world in an effort to compete with other pan-Arab television outlets like Al Jazeera and Al Arabiya.

We have seen dramatic results. In several cities in the Middle East, Radio Sawa is now the leading international broadcaster, and is competitive with local stations. A survey conducted in Morocco earlier this year shows that, in Casablanca and Rabat, Radio Sawa is the No. 1 station among all listeners over age 15. Some 88 percent of people in those cities under the age of 30 listen weekly, and 64 percent of those

over age 30 do so. The listener audience is not as high in other countries—ranging from a low of 2 percent in Lebanon to 7 percent in Egypt to 42 percent in the UAE to 45 percent in Kuwait. But these data are phenomenal for international broadcasting, where you are doing well if you are attracting five percent of the audience weekly.

Although Alhurra television programming has only been on the air for 7 months, it is already attracting an important audience share. Recent data indicate that some 33 percent watch it weekly in Kuwait, 20 percent watch it weekly in Saudi Arabia, and 19 percent watch it weekly in Jordan and the United Arab Emirates. That's not as high as Al Jazeera and Al Arabiya, other pan-Arab satellite networks that are more dominant, but after 7 months, we are in the game.

We can and should build on these successes, by expanding our broadcasting efforts to other nations with large Muslim populations—from Southeast Asia to Central and South Asia to the African continent. The bill that I introduce today authorizes such an expansion, and would provide for new or expanded services, in both radio and television, to all of these regions. This would not involve a one-sized-fits-all approach, but a targeted effort based on analysis of each individual market.

I do not want to imply that this will provide an immediate impact. It will be a significant challenge. It will require additional resources and personnel. It will require diplomatic efforts—to obtain permission for construction relay stations and to procure local broadcast licenses. But we cannot afford not to try.

Around the globe, there are some 1.2 billion Muslims. Polling data indicate that favorable attitudes toward the United States and U.S. policy have declined considerably in the last few years. One report, prepared by the Pew organization in June 2003, stated that ''the bottom has fallen out of support for America in most of the Muslim world. Negative views of the U.S. among Muslims, which had been largely limited to countries in the Middle East, have spread to Muslim populations in Indonesia and Nigeria.'' The negative image of America is perhaps the natural result of our status as a global superpower. It also stems from disagreements in foreign nations with U.S. policy. But it is also the result of a failure to explain U.S. policy, and a failure to engage in a dialogue with foreign audiences.

The negative opinion in the world about the United States and U.S. policy is a national security challenge of the fist order. We must deal with this simple fact: most foreign governments, even non-democratic ones, are constrained in their ability to support American policy if their own people oppose the United States and its policies. We must, therefore, greatly expand our efforts to engage foreign audiences, not in a one-way monologue, but in a dialogue. International broadcasting is just one means of conducting that dialogue. We have to explain who we are, what we stand for, and what our motives are. If we don't, we will have ceded the field to people who will misrepresent our policies or our motives.

International broadcasting is one of several public diplomacy programs—such as international exchanges and information programs—that have been underfunded and understaffed for too long. This legislation I introduce today only addresses international broadcasting. We should make similar investments in our other public diplomacy programs, and I will continue to work to ensure that we do so.

The 9/11 Commission recognized the lack of adequate funding for these programs, and called on Congress and the administration to invest in them. Among other things, the Commission specifically recommended that we increase funding for international broadcasting:

> Recognizing that Arab and Muslim audiences rely on satellite television and radio, the government has begun some promising initiatives in television and radio broadcasting to the Arab world, Iran, and Afghanistan. These efforts are beginning to reach large audiences. The Broadcasting Board of Governors has asked for much larger resources. It should get them.

The 9/11 Commission did not recommend a specific budget amount, or provide a detailed plan. This proposal does both. It is based on a thoroughly-researched plan. It provides significant resources—$222 million in one-time costs, and annual costs of $345 million. This represents about a 60 percent increase over the current annual budget of $570 million for such broadcasting. Relative to other national security programs, I believe it is a bargain—and an investment that is well worth the price.

I urge my colleagues to support this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2874

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Initiative 911 Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Open communication of information and ideas among peoples of the world contributes to international peace and stability, and that the promotion of such communication is important to the national security of the United States.

(2) The United States needs to improve its communication of information and ideas to people in foreign countries, particularly in countries with significant Muslim populations.

(3) A significant expansion of United States international broadcasting would provide a cost-effective means of improving communication with countries with significant Muslim populations by providing news, information, and analysis, as well as cultural programming, through both radio and television broadcasts.

(4) The report of the National Commission on Terrorist Attacks Upon the United States stated that, ''Recognizing that Arab and Muslim audiences rely on satellite television and radio, the government has begun some promising initiatives in television and radio broadcasting to the Arab world, Iran, and Afghanistan. These efforts are beginning to reach large audiences. The Broadcasting Board of Governors has asked for much larger resources. It should get them.''.

SEC. 3. SPECIAL AUTHORITY FOR SURGE CAPACITY.

The United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.) is amended by adding at the end the following new section:

''SEC. 316. SPECIAL AUTHORITY FOR SURGE CAPACITY.

''(a) EMERGENCY AUTHORITY.—

''(1) IN GENERAL.—Whenever the President determines it to be important to the national interests of the United States and so certifies to the appropriate congressional committees, the President, on such terms and conditions as the President may determine, is authorized to direct any department, agency, or other entity of the United States to furnish the Broadcasting Board of Governors with such assistance as may be necessary to provide international broadcasting activities of the United States with a surge capacity to support United States foreign policy objectives during a crisis abroad.

''(2) SUPERSEDES EXISTING LAW.—The authority of paragraph (1) supersedes any other provision of law.

''(3) SURGE CAPACITY DEFINED.—In this subsection, the term 'surge capacity' means the financial and technical resources necessary to carry out broadcasting activities in a geographical area during a crisis.

''(b) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—Effective October 1, 2004, there are authorized to be appropriated to the President such amounts as may be necessary for the President to carry out this section, except that no such amount may be appropriated which, when added to amounts previously appropriated for such purpose but not yet obligated, would cause such amounts to exceed $25,000,000.

''(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations in this subsection are authorized to remain available until expended.

''(3) DESIGNATION OF APPROPRIATIONS.—Amounts appropriated pursuant to the authorization of appropriations in this subsection may be referred to as the 'United States International Broadcasting Surge Capacity Fund'.''.

SEC. 4. REPORT.

In each annual report submitted under section 305(a)(9) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6204(a)(9)) after the date of enactment of this Act, the Broadcasting Board of Governors shall give special attention to reporting on the activities carried out under this Act.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to amounts otherwise available for such purposes, the following amounts are authorized to be appropriated to carry out United States Government broadcasting activities under the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.), the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.), the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted in division of G of the

Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 107–277), and this Act, and to carry out other authorities in law consistent with such purposes:

(1) INTERNATIONAL BROADCASTING OPERATIONS.—For ''International Broadcasting Operations'', $497,000,000 for the fiscal year 2005.

(2) BROADCASTING CAPITAL IMPROVEMENTS.—For ''Broadcasting Capital Improvements'', $70,000,000 for the fiscal year 2005.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations in this section are authorized to remain available until expended.

By Mrs. HUTCHISON (for herself, Mr. BAYH, and Mr. KENNEDY):

S. 2876. A bill to amend title XVIII of the Social Security Act to eliminate reductions in payments to hospitals for the indirect costs of medical education; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I am pleased to introduce legislation today to restore Medicare reimbursement to hospitals. I introduce the American Hospital Preservation Act with my colleague, Senator BAYH, to restore reimbursement for indirect medical education (IME) payments to teaching hospitals. IME payments give teaching hospitals an additional Medicare reimbursement due to their higher costs of inpatient care. The Medicare Modernization Act restored the reimbursement rate to 6 percent for fiscal year 2004. However this payment update expires today. Over the next 3 years, reimbursements to teaching hospitals will decrease, making it more difficult to care for our sick and to train our future health care providers. The American Hospital Preservation Act would fix the reimbursement rate at 6.0 and will ensure our hospitals are compensated for the invaluable care they provide to our patients.

Hospital admissions have risen from 31 million patients in 1990 to 33 million in 2000, and the number of days in the hospital is rising as well. Increased admissions, rising liability premiums, and the cost of advanced technology have forced hospitals to cut back on services. The cost of a pint of blood increased 31 percent in 2001, an additional $920 million burden to hospitals. Such costs are continuing to rise, yet Medicare reimbursements to hospitals are not keeping pace with inflation and their margins are slowly shrinking. Fifty-eight percent of hospitals are losing money on the Medicare patients they treat.

Teaching hospitals have higher costs due to their critical role in educating tomorrow's physicians. They run more tests, utilize newer technology and require more staff because they are training our future health professionals. Preserving this reimbursement rate is vital to continuing this training. Although only 23 percent of all hospitals are teaching hospitals, they deliver over two-thirds of charity care. Many patients rely on these hospitals for their health, which make-up 78 percent of all trauma centers and 80 percent of all burn beds. Further, a disproportionate percentage of the most seriously ill and injured patients are treated and convalesce in teaching hospitals. Emergency rooms are increasingly used as a primary care clinic because patients cannot find a physician who accepts Medicare, and they treat more individuals who are uninsured. In 2000, hospitals provided $21.6 billion in uncompensated care.

Lower reimbursement rates coupled with bioterrorism risks and a workforce shortage make our hospitals a time bomb waiting to go off. It is our responsibility to ensure they have adequate resources.

I look forward to working with my colleagues to pass the American Hospital Preservation Act.

By Mr. GREGG (for himself, Mr. BOND, and Mr. GRAHAM of South Carolina):

S. 2877. A bill to reduce the special allowance for loans from the proceeds of tax exempt issues, and to provide additional loan forgiveness for teachers who teach mathematics, science, or special education; to the Committee on Health, Education, Labor, and Pensions.

Mr. GREGG. Mr. President, in recent days, much ink has been spilled and much rhetoric bandied about on the subject of the 8.5 percent interest rate on student loans the Federal Government guarantees to a handful of lenders. We all agree that this loophole, which results in windfall profits to some lenders and banks, should be ended.

Only recently have my colleagues on the other side of the aisle even acknowledged that this was a problem. It should be noted, that Democrats not only created and protected this flawed policy during the Clinton administration they failed to correct the problem when they were in the majority.

Republicans have repeatedly demonstrated a commitment to ending the exploitation of the 9.5 percent interest rate guarantee. The President submitted a budget in February that closed the loophole. House Republicans introduced a higher education bill in May that also would close the loophole. But Democrats showed no interest in moving either of those pieces of legislation. Instead, they have recently offered a series of misguided, ineffectual attempts to close the loophole. The Kildee amendment that passed the House did not close the loophole—a fact even Senate Democrats acknowledge. That amendment prohibited discretionary funds from being used to administer the 9.5 percent payments or for the payments themselves. The fact that such payments are made with mandatory funds under the Higher Education Act renders the amendment powerless.

Similarly, Senator MURRAY's amendment that was rejected at the Labor-HHS-Education markup failed to close the loophole for several reasons. Her amendment would have allowed lenders to transfer loans within their portfolio to continue to receive the 9.5 percent guarantee, a practice explicitly criticized in the GAO report on this issue. Worse, her amendment would have spent more money than it generated by converting savings that accrue over 10 years into discretionary expenditures to be spent in a single year, 2005.

Senator MURRAY's amendment would also have jeopardized student benefits nationwide by preventing nonprofit lenders, which are required to pour any extra Federal funds they receive back into the student loan program, from legitimately receiving the guarantee. In other words, her amendment would have led to increased interest rates and origination fees for student borrowers, and the elimination of loan forgiveness programs for nurses, teachers, and public safety officers.

The potential damage did not end there. Because Senator MURRAY's amendment would have disrupted contractual obligations between the Federal Government and lenders and note holders, it could have exposed the Department of Education to costly litigation and risk a court order requiring the payments to be restored.

Clearly, efforts to end the loophole have been unproductive or worse thus far. Today, I hope to transform the debate by introducing the Taxpayer-Teacher Protection Act of 2004, along with my colleagues, Senators BOND and GRAHAM, and Representative BOEHNER in the House. This legislation will close the loophole for one year and direct the resulting savings toward the expansion of teacher loan forgiveness programs for math, science and special education teachers in schools with large numbers of disadvantaged students, without cutting student benefits enjoyed by borrowers who receive loans from nonprofit lenders.

Specifically, the bill would protect taxpayers by shutting down the loophole in 2005 in a way that immediately halts the high subsidies for refunding, transfers of loans from tax-exempt to taxable bonds and other related transactions. It puts lenders and note holders on notice that Congress will permanently and quickly phase out all other aspects of the 9.5 percent guarantee without putting the federal government in jeopardy of costly litigation. The bill protects student benefits provided by non-profit lenders, including 0 percent interest rate student loans for on-time completion, lower interest rates for certain students and loan forgiveness for teachers, nurses and public safety personnel.

The bill invests the related savings to more than triple teacher loan forgiveness to $17,500 for teachers of math, science, and special education—disciplines where there are widespread shortages, particularly in the inner city and rural communities—who teach in high-need schools districts for five years, and who meet the No Child Left Behind definition of a highly qualified

teacher. Such loan forgiveness provides an important recruiting tool for local districts to fill teacher shortages, and rewards teachers who teach disadvantaged children and children with disabilities, while preparing the students in the areas of math and science that are so critical to our security and prosperity as a nation.

The President recently sent us a letter reiterating his desire that Congress act quickly to enact legislation to close the loophole. I urge my colleagues who are serious about ending this loophole to join me in supporting the Taxpayer-Teacher Protection Act of 2004, so that we can send it to the President's desk without delay, and send our dollars where they belong—benefiting students.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2877

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Taxpayer-Teacher Protection Act of 2004''.

SEC. 2. REDUCTION OF THE SPECIAL ALLOWANCE FOR LOANS FROM THE PROCEEDS OF TAX EXEMPT ISSUES.

Section 438(b)(2)(B) of the Higher Education Act of 1965 (20 U.S.C. 1087–1(b)(2)(B)) is amended—

(1) in clause (i), by striking ''this division'' and inserting ''this clause'';

(2) in clause (ii), by striking ''division (i) of this subparagraph'' and inserting ''clause (i) of this subparagraph'';

(3) in clause (iv), by inserting ''or refunded on or after October 1, 2004 and before October 1, 2005,'' after ''October 1, 1993,''; and

(4) by adding at the end the following new clause:

''(v) Notwithstanding clauses (i) and (ii), the quarterly rate of the special allowance shall be the rate determined under subparagraph (A), (E), (F), (G), (H), or (I) of this paragraph, or paragraph (4), as the case may be, for a holder of loans that—

''(I) were made or purchased with funds—

''(aa) obtained from the issuance of obligations the income from which is excluded from gross income under the Internal Revenue Code of 1986 and which obligations were originally issued before October 1, 1993; or

''(bb) obtained from collections or default reimbursements on, or interests or other income pertaining to, eligible loans made or purchased with funds described in division (aa), or from income on the investment of such funds; and

''(II) were—

''(aa) financed by such an obligation that has matured, or been retired or defeased;

''(bb) refinanced on or after October 1, 2004 and before October 1, 2005, with funds obtained from a source other than funds described in subclause (I) of this clause; or

''(cc) sold or transferred to any other holder on or after October 1, 2004 and before October 1, 2005.''.

SEC. 3. LOAN FORGIVENESS FOR TEACHERS.

(a) IMPLEMENTING HIGHLY QUALIFIED TEACHER REQUIREMENTS.—

(1) AMENDMENTS.—

(A) FFEL LOANS.—Section 428J(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078–10(b)(1)) is amended—

(i) in subparagraph (A), by inserting ''and'' after the semicolon; and

(ii) by striking subparagraphs (B) and (C) and inserting the following:

''(B) if employed as an elementary school or secondary school teacher, is highly qualified as defined in section 9101 of the Elementary Secondary Education Act of 1965; and''.

(B) DIRECT LOANS.—Section 460(b)(1)(A) of the Higher Education Act of 1965 (20 U.S.C. 1087j(b)(1)(A)) is amended—

(i) in clause (i), by inserting ''and'' after the semicolon; and

(ii) by striking clauses (ii) and (iii) and inserting the following:

''(ii) if employed as an elementary school or secondary school teacher, is highly qualified as defined in section 9101 of the Elementary and Secondary Education Act of 1965; and''.

(2) TRANSITION RULE.—

(A) RULE.—The amendments made by paragraph (1) of this subsection to sections 428J(b)(1) and 460(b)(1)(A) of the Higher Education Act of 1965 shall not be applied to disqualify any individual who, before the date of enactment of this Act, commenced service that met and continues to meet the requirements of such sections as such sections were in effect on the day before the date of enactment of this Act.

(B) RULE NOT APPLICABLE TO INCREASED QUALIFIED LOAN AMOUNTS.—Subparagraph (A) of this paragraph shall not apply for purposes of obtaining increased qualified loan amounts under sections 428J(c)(3) and 460(c)(3) of the Higher Education Act of 1965 as added by subsection (b) of this section.

(b) ADDITIONAL AMOUNTS ELIGIBLE TO BE REPAID.—

(1) FFEL LOANS.—Section 428J(c) of the Higher Education Act of 1965 (20 U.S.C. 1078–10(c)) is amended by adding at the end the following:

''(3) ADDITIONAL AMOUNTS FOR TEACHERS IN MATHEMATICS, SCIENCE, OR SPECIAL EDUCATION.—Notwithstanding the amount specified in paragraph (1), the aggregate amount that the Secretary shall repay under this section shall be not more than $17,500 in the case of—

''(A) a secondary school teacher—

''(i) who meets the requirements of subsection (b); and

''(ii) whose qualifying employment for purposes of such subsection is teaching mathematics or science on a full-time basis; and

''(B) an elementary school or secondary school teacher—

''(i) who meets the requirements of subsection (b);

''(ii) whose qualifying employment for purposes of such subsection is as a special education teacher whose primary responsibility is to provide special education to children with disabilities (as those terms are defined in section 602 of the Individuals with Disabilities Education Act); and

''(iii) who, as certified by the chief administrative officer of the public or non-profit private elementary school or secondary school in which the borrower is employed, is teaching children with disabilities that corresponds with the borrower's special education training and has demonstrated knowledge and teaching skills in the content areas of the elementary school or secondary school curriculum that the borrower is teaching.''.

(2) DIRECT LOANS.—Section 460(c) of the Higher Education Act of 1965 (20 U.S.C. 1087j(c)) is amended by adding at the end the following:

''(3) ADDITIONAL AMOUNTS FOR TEACHERS IN MATHEMATICS, SCIENCE, OR SPECIAL EDUCATION.—Notwithstanding the amount specified in paragraph (1), the aggregate amount that the Secretary shall cancel under this section shall be not more than $17,500 in the case of—

''(A) a secondary school teacher—

''(i) who meets the requirements of subsection (b)(1); and

''(ii) whose qualifying employment for purposes of such subsection is teaching mathematics or science on a full-time basis; and

''(B) an elementary school or secondary school teacher—

''(i) who meets the requirements of subsection (b)(1);

''(ii) whose qualifying employment for purposes of such subsection is as a special education teacher whose primary responsibility is to provide special education to children with disabilities (as those terms are defined in section 602 of the Individuals with Disabilities Education Act); and

''(iii) who, as certified by the chief administrative officer of the public or non-profit private elementary school or secondary school in which the borrower is employed, is teaching children with disabilities that corresponds with the borrower's special education training and has demonstrated knowledge and teaching skills in the content areas of the elementary school or secondary school curriculum that the borrower is teaching.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply only with respect to eligible individuals who are new borrowers on or after October 1, 1998, and before October 1, 2005.

By Mr. CAMPBELL:

S. 2878. A bill to amend the Hoopa-Yurok Settlement Act to provide for the acquisition of land for the Yurok Reservation and an increase in economic development beneficial to the Hoopa Valley Tribe and the Yurok Tribe, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am pleased to introduce The Hoopa-Yurok Settlement Amendment Act of 2004, a bill that would provide for the acquisition of land for the Yurok Reservation and an increase in economic development beneficial to the Hoopa Valley Tribe and Yurok Tribe in the State of California. This bill is introduced at the request of the Hoopa Valley Tribe and the Yurok Tribe, and is for discussion purposes only.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2878

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Hoopa-Yurok Settlement Amendment Act of 2004''.

SEC. 2. ACQUISITION OF LAND FOR THE YUROK RESERVATION.

Section 2(c) of the Hoopa-Yurok Settlement Act (25 U.S.C. 1300i–1(c)) is amended by adding at the end the following:

''(5) LAND ACQUISITION.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Secretary and the Secretary of Agriculture shall—

''(i) in consultation with the Yurok Tribe, identify Federal and private land available from willing sellers within and adjacent to

or in close proximity to the Yurok Reservation in the aboriginal territory of the Yurok Tribe (excluding any land within the Hoopa Valley Reservation) as land that may be considered for inclusion in the Yurok Reservation;

''(ii) negotiate with the Yurok Tribe to determine, from the land identified under clause (i), a land base for an expanded Yurok Reservation that will be adequate for economic self-sufficiency and the maintenance of religious and cultural practices;

''(iii) jointly with the Yurok Tribe, provide for consultation with local governments, and other parties whose interests are directly affected, concerning the potential sale or other transfer of land to the Yurok Tribe under this Act;

''(iv) submit to Congress a report identifying any parcels of land within their respective jurisdictions that are determined to be within the land base negotiated under clause (ii); and

''(v) not less than 60 days after the date of submission of the report under clause (iv), convey to the Secretary in trust for the Yurok Tribe the parcels of land within their respective jurisdictions that are within that land base.

''(B) ACCEPTANCE IN TRUST.—The Secretary shall—

''(i) accept in trust for the Yurok Tribe the conveyance of such private land as the Yurok Tribe, or the United States on behalf of the Yurok Tribe, may acquire from willing sellers, by exchange or purchase; and

''(ii) provide for the expansion of the Yurok Reservation boundaries to reflect the conveyances.

''(C) FUNDING.—Notwithstanding any other provision of law, from funds made available to carry out this Act, the Secretary may use $2,500,000 to pay the costs of appraisals, surveys, title reports, and other requirements relating to the acquisition by the Yurok Tribe of private land under this Act (excluding land within the boundaries of the Hoopa Valley Reservation).

''(D) REPORT.—

''(i) IN GENERAL.—Not later than 90 days after the date of submission of the report under subparagraph (A)(iv), the Secretary, in consultation with the Secretary of Agriculture relative to the establishment of an adequate land base for the Yurok Tribe, shall submit to Congress a report that describes—

''(I) the establishment of an adequate land base for the Yurok Tribe and implementation of subparagraph (A);

''(II) the sources of funds remaining in the Settlement Fund, including the statutory authority for such deposits and the activities, including environmental consequences, if any, that gave rise to those deposits; and

''(III) disbursements made from the Settlement Fund;

''(IV) the provision of resources, reservation land, trust land, and income-producing assets including, to the extent data are available (including data available from the Hoopa Valley Tribe and the Yurok Tribe), the environmental condition of the land and income-producing assets, infrastructure, and other valuable assets; and

''(V) to the extent data are available (including data available from the Hoopa Valley Tribe and the Yurok Tribe), the unmet economic, infrastructure, and land needs of each of the Hoopa Valley Tribe and the Yurok Tribe.

''(ii) LIMITATION.—No expenditures for any purpose shall be made from the Settlement Fund before the date on which, after receiving the report under clause (i), Congress enacts a law authorizing such expenditures, except as the Hoopa Valley Tribe and Yurok Tribes may agree pursuant to their respective constitutional requirements.

''(6) CLAIMS.—

''(A) IN GENERAL.—The Court of Federal Claims shall hear and determine all claims of the Yurok Tribe or a member of the Yurok Tribe against the United States asserting that the alienation, transfer, lease, use, or management of land or natural resources located within the Yurok Reservation violates the Constitution, laws, treaties, Executive orders, regulations, or express or implied contracts of the United States.

''(B) CONDITIONS.—A claim under subparagraph (A) shall be heard and determined—

''(i) notwithstanding any statute of limitations (subject to subparagraph (C)) or any claim of laches; and

''(ii) without application of any setoff or other claim reduction based on a judgment or settlement under the Act of May 18, 1928 (25 U.S.C. 651 et seq.) or other laws of the United States.

''(C) LIMITATION.—A claim under subparagraph (A) shall be brought not later than 10 years after the date of enactment of this paragraph.''.

SEC. 3. JURISDICTION.

(a) LAW ENFORCEMENT AND TRIBAL COURT FUNDS AND PROGRAMS.—Section 2(f) of the Hoopla-Yurok Settlement Act (25 U.S.C. 1300i–1(f)) is amended—

(1) by striking ''The Hoopa'' and inserting the following:

''(1) IN GENERAL.—The Hoopa'';

(2) by striking the semicolon after ''Code'' the first place it appears and inserting a comma; and

(3) by adding at the end the following:

''(2) LAW ENFORCEMENT AND TRIBAL COURT FUNDS AND PROGRAMS.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), Federal law enforcement and tribal court funds and programs shall be made available to the Hoopa Valley Tribe and Yurok Tribe on the same basis as the funds and programs are available to Indian tribes that are not subject to the provisions of law referred to in paragraph (1).

''(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for Yurok law enforcement and tribal court programs $1,000,000 for each fiscal year.''.

(b) RECOGNITION OF THE YUROK TRIBE.—Section 9 of the Hoopa-Yurok Settlement Act (25 U.S.C. 1300i–8) is amended by adding at the end the following:

''(f) RECOGNITION OF THE YUROK TRIBE.—The authority of the Yurok Tribe over its territories as provided in the constitution of the Yurok Tribe as of the date of enactment of this subsection are ratified and confirmed insofar as that authority relates to the jurisdiction of the Yurok Tribe over persons and land within the boundaries of the Yurok Reservation.''.

(c) YUROK RESERVATION RESOURCES.—Section 12 of the Hoopa Yurok Settlement Act (102 Stat. 2935) is amended by adding at the end the following:

''(c) KLAMATH RIVER BASIN FISHERIES.—

''(1) IN GENERAL.—The Secretary and the Secretary of Agriculture shall enter into stewardship agreements with the Yurok Tribe with respect to management of Klamath River Basin fisheries and water resources.

''(2) EFFECT OF PARAGRAPH.—Nothing in paragraph (1) provides the Yurok Tribe with any jurisdiction within the Hoopa Valley Reservation.

''(d) MANAGEMENT AUTHORITY.—

''(1) DEFINITION OF COMANANGEMENT AUTHORITY.—In this subsection, the term 'management authority' means the right to make decisions jointly with the Secretary or the Secretary of Agriculture, as the case may be, with respect to the natural resources and sacred and cultural sites described in paragraph (2).

''(2) GRANT OF MANAGEMENT AUTHORITY.—There is granted to the Yurok Tribe management authority over all natural resources, and over all sacred and cultural sites of the Yurok Tribe within their usual and accustomed places, that are on land remaining under the jurisdiction of the National Park Service, Forest Service, or Bureau of Land Management within the aboriginal territory of the Yurok Tribe.

''(e) SUBSISTENCE.—

''(1) IN GENERAL.—There is granted access for subsistence hunting, fishing, and gathering rights for members of the Yurok Tribe over all land and water within the aboriginal territory of the Yurok Tribe that remain under the jurisdiction of the Yurok Tribe or the United States, excluding any land within the Hoopa Valley Reservation.

''(2) CONDITION.—All subsistence-related activities under paragraph (1) shall be conducted in accordance with management plans developed by the Yurok Tribe.''.

SEC. 4. BASE FUNDING.

From amounts made available to the Secretary for new tribes funding, the Secretary shall make an adjustment in the base funding for the Yurok Tribe based on the enrollment of the Yurok Tribe as of the date of enactment of this Act.

SEC. 5. YUROK INFRASTRUCTURE DEVELOPMENT.

(a) IN GENERAL.—There are authorized to be appropriated—

(1) $20,000,000 for the upgrade and construction of Bureau of Indian Affairs and tribal roads on the Yurok Reservation;

(2) for each fiscal year, $500,000 for the operation of a road maintenance program for the Yurok Tribe;

(3) $3,500,000 for purchase of equipment and supplies for the Yurok Tribe road maintenance program;

(4) $7,600,000 for the electrification of the Yurok Reservation;

(5) $2,500,000 for telecommunication needs on the Yurok Reservation;

(6) $18,000,000 for the improvement and development of water and wastewater treatment systems on the Yurok Reservation;

(7) $6,000,000 for the development and construction of a residential care, drug and alcohol rehabilitation, and recreational complex near Weitchpec;

(8) $7,000,000 for the construction of a cultural center for the Yurok Tribe;

(9) $4,000,000 for the construction of a tribal court, law enforcement, and detention facility in Klamath;

(10) $10,000,000 for the acquisition or construction of at least 50 homes for Yurok Tribe elders;

(11) $3,200,000 for the development and initial startup cost for a Yurok School District; and

(12) $800,000 to supplement Yurok Tribe higher education need.

(b) PRIORITY.—Congress—

(1) recognizes the unsafe and inadequate condition of roads and major transportation routes on and to the Yurok Reservation; and

(2) identifies as a priority that those roads and major transportation routes be upgraded and brought up to the same standards as transportation systems throughout the State of California.

SEC. 6. YUROK ECONOMIC DEVELOPMENT.

There are authorized to be appropriated—

(1) $20,000,000 for the construction of an ecolodge and associated costs;

(2) $1,500,000 for the purchase of equipment to establish a gravel operation; and

(3) $6,000,000 for the purchase and improvement of recreational and fishing resorts on the Yurok Reservation.

SEC. 7. BLM LAND.

(a) CONVEYANCE TO THE YUROK TRIBE.—The following parcels of Bureau of Land Management land within the aboriginal territory of the Yurok Tribe are conveyed in trust status to the Yurok Tribe:

(1) T. 9N., R. 4E, HUM, sec. 1.
(2) T. 9N., R. 4E, sec. 7.
(3) T. 9N., R. 4E., sec. 8, lot 3.
(4) T. 9N., R. 4E., sec. 9, lots 19 and 20.
(5) T. 9N., R. 4E., sec. 17, lots 3 through 6.
(6) T. 9N., R. 4E., sec. 18, lots 7 and 10.
(7) T. 9N., R. 3E., sec. 13, lots 8 and 12.
(8) T. 9N., R. 3E, sec. 14, lot 6.

(b) CONVEYANCE TO THE HOOPA VALLEY TRIBE.—The following parcels of Bureau of Land Management land along the western boundaries of the Hoopa Valley Reservation are conveyed in trust status to the Hoopa Valley Tribe:

(1) T. 9N, R. 3E., sec. 23, lots 7 and 8.
(2) T. 9N., R. 3E., sec. 26, lots 1 through 3.
(3) T. 7N., R. 3E., sec. 7, lots 1 and 6.
(4) T. 7N., R. 3E., sec. 1.

SEC. 8. REPEAL OF OBSOLETE PROVISIONS.

Section 2(c)(4) of the Hoopa-Yurok Settlement Act (25 U.S.C. 1300i–1(c)(4)) is amended by striking ''The—'' and all that follows through ''shall not be'' and inserting ''The apportionment of funds to the Yurok Tribe under sections 4 and 7 shall not be''.

SEC. 9. VOTING MEMBER.

Section 3(c) of the Klamath River Basin Fisheries Restoration Act (16 U.S.C. 460ss–2(c)) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6); and

(2) by striking paragraph (3) and inserting the following:

''(3) A representative of the Yurok Tribe who shall be appointed by the Yurok Tribal Council.

''(4) A representative of the Department of the Interior who shall be appointed by the Secretary.''.

SEC. 10. ECONOMIC SELF-SUFFICIENCY.

Section 10 of the Hoopa-Yurok Settlement Act (25 U.S.C. 1300i–9) is amended by striking subsection (a) and inserting the following:

''(a) PLAN FOR ECONOMIC SELF-SUFFICIENCY.—

''(1) NEGOTIATIONS.—Not later than 30 days after the date of enactment of the Hoopa-Yurok Settlement Amendment Act of 2004, the Secretary shall enter into negotiations with the Yurok Tribe to establish a plan for the economic self-sufficiency of the Yurok Tribe, which shall be completed not later than 18 months after the date of enactment of the Hoopa-Yurok Settlement Amendment Act of 2004.

''(2) SUBMISSION TO CONGRESS.—On the approval of the plan by the Yurok Tribe, the Secretary shall submit the plan to Congress.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $3,000,000 to establish the Yurok Tribe Self-Sufficiency Plan.''.

SEC. 11. EFFECT OF ACT.

Nothing in this Act or any amendment made by this Act limits the existing rights of the Hoopa Valley Tribe or the Yurok Tribe Tribe.

By Mr. CAMPBELL:

S. 2879. A bill to restore recognition to the Winnemem Wintu Indian Tribe of California; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am pleased to introduce ''The Winnemem Wintu Tribe Clarification and Restoration Act,'' a bill that would clarify the status of the Winnemem Wintu Tribe of northern California. I am introducing this bill, at the request of the tribe, primarily to initiate a discussion of the tribe's status among all the interested parties, including the tribe, local communities, and the tribe's congressional delegation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2879

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Winnemem Wintu Tribe Clarification and Restoration Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Winnemem Wintu Indian Tribe was entitled to have been included in the 1979 acknowledgement process that created a list of federally recognized California tribes;

(2) in addition to its continuous historic relationship with the Federal Government, the trust status of the Tribe was reaffirmed by the provisions of the Act of July 30, 1941 (55 Stat. 612, chapter 334), which granted to the United States all tribal and allotted Indian land within the area embraced by the Central Valley Project;

(3) under that Act, the Secretary, acting through the Commissioner of Reclamation, on January 5, 1942, created the Shasta Reservoir Indian Cemetery, which contains Winnemem Wintu remains, markers, and other appurtenances held in trust by the United States;

(4) Winnemem Wintu remains were removed to that cemetery from the traditional cemetery of the Tribe in the McCloud River valley that was flooded by the Shasta Reservoir;

(5) the Bureau of Reclamation informed the Area Director of the Indian Service in writing on December 22, 1942, of the new cemetery and its status as Federal trust land;

(6) the Secretary, through an administrative oversight or inaction of the Indian Service, overlooked the trust status of the Tribe, which was reaffirmed by the making of partial restitution by the Secretary for the taking of tribal land and the 1941 relocation of the remains of tribal members, which remain interred in the Shasta Reservoir Indian Cemetery;

(7) the ongoing trust relationship of the Tribe with the Federal Government should have been recognized by the Secretary, and the Tribe should have been included in the 1979 listing of federally recognized California tribes; and

(8) the Tribe, as a matter of sovereign choice, has determined that the conduct of gaming by the Tribe would be detrimental to the maintenance of its traditional tribal culture.

SEC. 3. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) SERVICE AREA.—The term ''service area'' means the counties of Shasta and Siskiyou, California.

(3) TRIBE.—The term ''Tribe'' means the Indians of the Winnemem Wintu Tribe of northern California.

SEC. 4. CLARIFICATION OF FEDERAL STATUS AND RESTORATION OF FEDERAL RIGHTS AND PRIVILEGES.

(a) FEDERAL STATUS.—Federal status is restored to the Tribe.

(b) APPLICABLE LAW.—Except as otherwise provided in this Act, all laws (including regulations) of general applicability to Indians and nations, tribes, or bands of Indians that are not inconsistent with any provision of this Act shall be applicable to the Tribe and members of the Tribe.

(c) RESTORATIONS OF RIGHTS AND PRIVILEGES.—Except as provided in subsection (d), all rights and privileges of the Tribe and members of the Tribe under any Federal treaty, Executive order, agreement, or statute, or under any other authority that were diminished or lost under Public Law 85–671 (72 Stat. 619) are restored, and that Act shall be inapplicable to the Tribe or members of the Tribe after the date of enactment of this Act.

(d) FEDERAL SERVICES AND BENEFITS.—

(1) ELIGIBILITY.—

(A) IN GENERAL.—Without regard to the existence of a reservation, the Tribe and its members shall be eligible, on and after the date of enactment of this Act, for all Federal services and benefits furnished to federally recognized Indian tribes or their members.

(B) RESIDING ON A RESERVATION.—For the purposes of Federal services and benefits available to members of federally recognized Indian tribes residing on a reservation, members of the Tribe residing in the service area shall be deemed to be residing on a reservation.

(2) RELATION TO OTHER LAWS.—The eligibility for or receipt of services and benefits under paragraph (1) by the Tribe or a member of the Tribe shall not be considered as income, resources, or otherwise when determining the eligibility for or computation of any payment or other benefit to the Tribe or member under—

(A) any financial aid program of the United States, (including grants and contracts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.); or

(B) any other benefit to which the Tribe or member would otherwise be entitled under any Federal or federally assisted program.

(e) HUNTING, FISHING, TRAPPING, GATHERING, AND WATER RIGHTS.—Nothing in this Act expands, reduces, or otherwise affects in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and members of the Tribe.

(f) CERTAIN RIGHTS NOT ALTERED.—Except as specifically provided in this Act, nothing in this Act alters any property right or obligation, any contractual right or obligation, or any obligation for taxes levied.

SEC. 5. RESERVATION OF THE TRIBE.

Not later than 1 year after the date of enactment of this Act, the Secretary shall take the 42.5-acre site presently occupied by the Tribe into trust for the benefit of the Tribe, and that land shall be the reservation of the Tribe.

SEC. 6. GAMING.

The Tribe shall not have the right to conduct gaming (within the meaning of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 139—DIRECTING THE ARCHITECT OF THE CAPITOL TO ESTABLISH A TEMPORARY EXHIBIT IN THE ROTUNDA OF THE CAPITOL TO HONOR THE MEMORY OF MEMBERS OF THE UNITED STATES ARMED FORCES WHO HAVE LOST THIR LIVES IN OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM

Mr. LAUTENBERG submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 139

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. EXHIBIT IN ROTUNDA OF THE CAPITOL IN HONOR OF MEMBERS OF ARMED FORCES KILLED IN IRAQ AND AFGHANISTAN.

(a) ESTABLISHMENT OF TEMPORARY EXHIBIT.—During the period beginning on October 1, 2004, and ending on November 30, 2004, the Architect of the Capitol shall display in the rotunda of the Capitol an exhibit to honor the memory of members of the United States Armed Forces who have lost their lives in Operation Iraqi Freedom and Operation Enduring Freedom.

(b) FORM OF EXHIBIT.—The exhibit displayed under this section shall be in such form and contain such material as the Architect may select, so long as—

(1) the exhibit displays the name, photograph, and biographical information with respect to each individual member of the United States Armed Forces who has lost his or her life in the Operations referred to in subsection (a); and

(2) the exhibit provides an opportunity for visitors to write messages of support and sympathy to the families of the individuals represented in the exhibit and to have those messages transmitted to the families.

Mr. LAUTENBERG. Mr. President, I rise today to submit a concurrent resolution that allows for a temporary display in the Capitol Rotunda memorializing the soldiers lost in Iraq and Afghanistan. I can think of no greater tribute to the families of those who died for our country than to honor their memories right here in the Capitol Building.

This temporary memorial would provide pictures and biographical information for each serviceman and servicewoman who has died in Operation Iraqi Freedom and Operation Enduring Freedom. Also, it would include space for people visiting the Capitol to write notes and tributes to be shared with the families so they know that their loved ones will always be in our thoughts and prayers.

To date, the United States has lost 1,409 soldiers in Iraq, and 138 in Afghanistan. There are currently 150,500 active duty and reserve forces in Iraq and Afghanistan combined—135,000 in Iraq and 15,500 in Afghanistan—including 3,709 from New Jersey.

The Capitol Rotunda is the symbolic heart of the United States Capitol and our Nation's democracy, and it is visited by thousands of people each day. The Rotunda has long been considered an ideal setting for important ceremonial events, including state funerals for presidents from Abraham Lincoln to Lyndon Johnson, distinguished Members of Congress, military heroes, and eminent citizens. The Rotunda is filled with portraits and sculptures reminding Americans of past battles and more modern achievements. Eight framed niches hold large historical paintings—four revolutionary period scenes and four scenes of early exploration.

There is precedence for a memorial to fallen heroes in the Capitol Rotunda. Beginning in 1921, the Capitol Rotunda was used to honor the Unknown Soldier who lost his life serving in World War I. Memorials to the Unknown Soldier from World War II, the Korean War, and the Vietnam War followed. In addition, in 1989, an official POW/MIA flag was installed in the U.S. Capitol Rotunda, where it remains today, as a result of legislation passed overwhelmingly during the 100th Congress.

This memorial builds upon congressional action of the past and presents an opportunity for the United States Congress to thank our fallen soldiers and their families. I urge my colleagues to join me in this endeavor.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3794. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table.

SA 3795. Mr. HOLLINGS (for himself, Mr. STEVENS, Mr. INOUYE, and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3796. Mr. KYL (for himself, Mr. CHAMBLISS, and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3797. Mr. GRAHAM, of Florida proposed an amendment to the bill S. 2845, supra.

SA 3798. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3799. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3800. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3801. Mr. KYL (for himself and Mr. CHAMBLISS) proposed an amendment to the bill S. 2845, supra.

SA 3802. Mr. LAUTENBERG (for himself, Mrs. CLINTON, Mr. FEINGOLD, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3803. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3804. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3805. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3806. Mr. MCCAIN (for himself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, supra.

SA 3807. Mr. MCCAIN (for himself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, supra.

SA 3808. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3809. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3810. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3811. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3812. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3813. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3814. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3815. Mr. ROCKEFELLER (for himself, Mrs. HUTCHISON, Mr. ROBERTS, and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3816. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3817. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1728, to amend the September 11th Victim Compensation Fund of 2001 (Public Law 107–42; 49 U.S.C. 40101 note) to provide compensation for the United States Citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. *Cole* on October 12, 2000, or the attack on the World Trade Center on February 26, 1993, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001; which was referred to the Committee on the Judiciary.

SA 3818. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table.

SA 3819. Mr. ENSIGN (for himself, Mr. KYL, Mr. CHAMBLISS, Mr. CORNYN, Mr. GRASSLEY, and Mr. SESSIONS) submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3820. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3821. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3822. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3823. Ms. COLLINS (for Mr. VOINOVICH) proposed an amendment to the bill S. 2845, supra.

SA 3824. Mr. BIDEN (for himself, Mr. SPECTER, and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table .

SA 3825. Mr. LEVIN (for himself and Mr. ALEXANDER) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3826. Mr. STEVENS (for himself, Mr. WARNER, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3827. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3828. Mr. STEVENS (for himself, Mr. INOUYE, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3829. Mr. STEVENS (for himself, Mr. WARNER, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3830. Mr. STEVENS (for himself, Mr. WARNER, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3831. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3832. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3833. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3834. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3835. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3836. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3837. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3838. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3839. Mr. STEVENS (for himself, Mr. WARNER, and Mr. INOUYE) proposed an amendment to the bill S. 2845, supra.

SA 3840. Mr. STEVENS (for himself, Mr. WARNER, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3841. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3842. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3843. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3844. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3845. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3846. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3847. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3848. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3849. Mr. CORZINE (for himself and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3850. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3851. Mr. GRASSLEY (for himself, Mr. CHAMBLISS, and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3852. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3853. Mr. GRASSLEY (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3854. Mr. TALENT submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3855. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3856. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3857. Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3858. Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3859. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3860. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3861. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3862. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3863. Mr. McCAIN (for himself, Mr. BREAUX, Mr. LAUTENBERG, Mr. BIDEN, Mr. SCHUMER, Ms. SNOWE, Mr. HOLLINGS, Mr. CARPER, Mrs. BOXER, Mrs. CLINTON, Mr. ROCKEFELLER, and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3864. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3865. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3866. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3867. Mr. LEVIN (for himself and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3868. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3869. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3870. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3871. Mr. SESSIONS (for himself, Mr. CORNYN, Mr. MILLER, and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3872. Mr. SESSIONS (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3873. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3874. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3875. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3876. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3877. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3878. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3879. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3880. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3881. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3882. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3883. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3884. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3885. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3886. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3887. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3888. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3889. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3890. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3891. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3892. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3893. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3894. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3895. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3896. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3897. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3898. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3899. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3900. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3901. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3902. Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3903. Mr. STEVENS (for himself, Mr. INOUYE, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3904. Mr. STEVENS (for himself and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3905. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3906. Mr. MCCAIN (for himself, Mr. LIEBERMAN, and Mr. BAYH) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3907. Mr. REID (for Mr. LAUTENBERG) submitted an amendment intended to be proposed by Mr. REID to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3908. Mr. REED (for himself, Mr. SARBANES, Mr. SCHUMER, Mrs. BOXER, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3909. Ms. SNOWE (for herself, Mr. ROBERTS, Ms. MIKULSKI, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3910. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3911. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3912. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3913. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3914. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3915. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3916. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3917. Mr. LEAHY (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3918. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3919. Mr. LEAHY (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3920. Mr. LEAHY (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3921. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3922. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3923. Mr. DURBIN (for himself, Mr. LEAHY, and Mr. SARBANES) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3924. Mr. ROBERTS (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3925. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3926. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3927. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3928. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3929. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3930. Mr. MCCONNELL (for himself and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3931. Mr. MCCONNELL (for himself, Mr. SANTORUM, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3932. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3933. Ms. CANTWELL (for herself, Mr. SESSIONS, Mr. SCHUMER, and Mr. KYL) submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3934. Mr. GREGG submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3935. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3936. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3937. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3938. Mr. HATCH (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3939. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3940. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3941. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3942. Mr. LIEBERMAN (for Mr. MCCAIN (for himself, Mr. LIEBERMAN, and Mr. BAYH)) proposed an amendment to the bill S. 2845, supra.

SA 3943. Mr. INHOFE (for Mr. GREGG (for himself, Mr. HARKIN, Mr. KENNEDY, Mr. ENZI, Mr. REED, Mr. DEWINE, Mrs. CLINTON, Mr. ROBERTS, Mr. BINGAMAN, Mrs. MURRAY, Mr. DASCHLE, and Mr. DODD)) submitted an amendment intended to be proposed by Mr. INHOFE to the bill H.R. 4278, to amend the Assistive Technology Act of 1998 to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes.

SA 3944. Mr. INHOFE (for Mr. LEAHY (for himself and Mr. HATCH)) proposed an amendment to the bill H.R. 2714, to reauthorize the State Justice Institute.

TEXT OF AMENDMENTS

SA 3794. Mr. GRAHAM of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community

and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 94, line 14, insert before the period the following: '', whether expressed in terms of geographic region, in terms of function, or in other terms''.

On page 95, line 3, insert after the period the following: ''Each notice on a center shall set forth the mission of such center, the area of intelligence responsibility of such center, and the proposed structure of such center.''.

On page 96, line 7, insert ''of the center and the personnel of the center'' after ''control''.

On page 96, between lines 8 and 9, insert the following:

(5) If the Director of a national intelligence center determines at any time that the authority, direction, and control of the Director over the center is insufficient to accomplish the mission of the center, the Director shall promptly notify the National Intelligence Director of that determination.

On page 96, strike line 15 and all that follows through page 97, line 2, and insert the following:

(1) develop and unify a strategy for the collection and analysis of all-source intelligence;

(2) integrate intelligence collection and analysis, both inside and outside the United States;

(3) develop interagency plans for the integration of the collection and analysis of all-source intelligence, which plans shall—

(A) involve more than one department, agency, or element of the executive branch (unless otherwise directed by the President); and

(B) include the mission, objectives to be achieved, courses of action, coordination of agencies operational activities, parameters for such courses of action, recommendations for operational plans, and assignment of departmental or agency responsibilities;

(4) ensure that the collection of all-source intelligence and the conduct of operations are informed by the analysis of all-source intelligence; and

On page 99, between lines 20 and 21, insert the following:

(g) REVIEW AND MODIFICATION OF CENTERS.—(1) Not less often than once each year, the National Intelligence Director shall review the area of intelligence responsibility assigned to each national intelligence center under this section in order to determine whether or not such area of responsibility continues to meet intelligence priorities established by the National Security Council.

(2) Not less often than once each year, the National Intelligence Director shall review the staffing and management of each national intelligence center under this section in order to determine whether or not such staffing or management remains appropriate for the accomplishment of the mission of such center.

(3) The National Intelligence Director may at any time recommend to the President a modification of the area of intelligence responsibility assigned to a national intelligence center under this section. The National Intelligence Director shall make any such recommendation through, and with the approval of, the National Security Council.

(h) SEPARATE BUDGET ACCOUNT.—The National Intelligence Director shall, in accordance with procedures to be issued by the Director in consultation with the congressional intelligence committees, include in the National Intelligence Program budget a separate account for each national intelligence center under this section.

On page 99, line 21, strike ''(g)'' and insert ''(i)''.

SA 3795. Mr. HOLLINGS (for himself, Mr. STEVENS, Mr. INOUYE, and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. NATIONAL INTELLIGENCE COORDINATOR.

(a) NATIONAL INTELLIGENCE COORDINATOR.—There is a National Intelligence Coordinator who shall be appointed by the President.

(b) RESPONSIBILITY.—Subject to the direction and control of the President, the National Intelligence Coordinator shall have the responsibility for coordinating the performance of all intelligence and intelligence-related activities of the United States Government, whether such activities are foreign or domestic.

(c) AVAILABILITY OF FUNDS.—Funds shall be available to the National Intelligence Coordinator for the performance of the responsibility of the Coordinator under subsection (b) in the manner provided by law or as directed by the President.

(d) MEMBERSHIP ON NATIONAL SECURITY COUNCIL.—The National Intelligence Coordinator shall be a member of the National Security Council.

(e) SUPPORT.—(1) Any official, office, program, project, or activity of the Central Intelligence Agency as of the date of the enactment of this Act that supports the Director of Central Intelligence in the performance of responsibilities and authorities as the head of the intelligence community shall, after that date, support the National Intelligence Coordination in the performance of the responsibility of the Coordinator under subsection (b).

(2) Any powers and authorities of the Director of Central Intelligence under statute, Executive order, regulation, or otherwise as of the date of the enactment of this Act that relate to the performance by the Director of responsibilities and authorities as the head of the intelligence community shall, after that date, have no further force and effect.

(f) ACCOUNTABILITY.—The National Intelligence Coordinator shall report directly to the President regarding the performance of the responsibility of the Coordinator under subsection (b), and shall be accountable to the President regarding the performance of such responsibility.

SA 3796. Mr. KYL (for himself, Mr. CHAMBLISS, and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 52, strike beginning with line 21 through page 56, line 8.

On page 154, strike beginning with line 8 through page 160, line 11 and insert the following:

(d) FUNCTIONS.—

(1) ADVICE AND COUNSEL ON POLICY DEVELOPMENT AND IMPLEMENTATION.—The Board shall—

(A) review proposed legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the development and adoption of information sharing guidelines under section 205(g);

(B) review the implementation of new and existing legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the implementation of information sharing guidelines under section 205(g); and

(C) advise the President and the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are appropriately considered in the development and implementation of such legislation, regulations, policies, and guidelines.

(2) OVERSIGHT.—The Board shall continually review—

(A) the regulations, policies, and procedures, and the implementation of the regulations, policies, and procedures, of the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are protected;

(B) the information sharing practices of the departments, agencies, and elements of the executive branch to determine whether they appropriately protect privacy and civil liberties and adhere to the information sharing guidelines prescribed under section 205(g) and to other governing laws, regulations, and policies regarding privacy and civil liberties; and

(C) other actions by the executive branch related to efforts to protect the Nation from terrorism to determine whether such actions—

(i) appropriately protect privacy and civil liberties; and

(ii) are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.

(3) TESTIMONY.—The Members of the Board shall appear and testify before Congress upon request.

(e) REPORTS.—

(1) IN GENERAL.—The Board shall periodically submit, not less than semiannually, reports—

(A)(i) to the appropriate committees of Congress, including the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(ii) to the President; and

(B) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

(2) CONTENTS.—Not less than 2 reports submitted each year under paragraph (1)(B) shall include—

(A) a description of the major activities of the Board during the preceding period; and

(B) information on the findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d).

(f) ACCESS TO INFORMATION.—

(1) AUTHORIZATION.—If determined by the Board to be necessary to carry out its responsibilities under this section, the Board is authorized to—

(A) have access from any department, agency, or element of the executive branch, or any Federal officer or employee, to all relevant records, reports, audits, reviews, documents, papers, recommendations, or other relevant material, including classified information consistent with applicable law;

(B) interview, take statements from, or take public testimony from personnel of any

department, agency, or element of the executive branch, or any Federal officer or employee; and

(C) request information or assistance from any State, tribal, or local government.

(2) AGENCY COOPERATION.—Whenever information or assistance requested under subparagraph (A) or (B) of paragraph (1) is, in the judgment of the Board, unreasonably refused or not provided, the Board may submit a request directly to the head of the department, agency, or element concerned.

On page 164, strike beginning with line 21 through page 170, line 8.

SA 3797. Mr. GRAHAM of Florida proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 94, line 14, insert before the period the following: '', whether expressed in terms of geographic region, in terms of function, or in other terms''.

On page 95, line 3, insert after the period the following: ''Each notice on a center shall set forth the mission of such center, the area of intelligence responsibility of such center, and the proposed structure of such center.''.

On page 96, line 7, insert ''of the center and the personnel of the center'' after ''control''.

On page 96, between lines 8 and 9, insert the following:

(5) If the Director of a national intelligence center determines at any time that the authority, direction, and control of the Director over the center is insufficient to accomplish the mission of the center, the Director shall promptly notify the National Intelligence Director of that determination.

On page 97, between lines 2 and 3 insert the following:

(5) develop and unify strategy for the collection and analysis of all-source intelligence;

(6) integrate intelligence collection and analysis, both inside and outside the United States;

(7) at the discretion of the NID develop interagency plans for the collection of all-source intelligence, which plans shall—

(A) involve more than one department, agency, or element of the executive branch (unless otherwise directed by the President); and

(B) include the mission, objectives to be achieved, courses of action, parameters for such courses of action, coordination of agencies intelligence collection activities, recommendations for intelligence collection plans, and assignment of departmental or agency responsibilities;

(4) ensure that the collection of all-source intelligence and the conduct of operations are informed by the analysis of all-source intelligence; and

On page 99, between lines 20 and 21, insert the following:

(g) REVIEW AND MODIFICATION OF CENTERS.—(1) Not less often than once each year, the National Intelligence Director shall review the area of intelligence responsibility assigned to each national intelligence center under this section in order to determine whether or not such area of responsibility continues to meet intelligence priorities established by the National Security Council.

(2) Not less often than once each year, the National Intelligence Director shall review the staffing and management of each national intelligence center under this section in order to determine whether or not such staffing or management remains appropriate for the accomplishment of the mission of such center.

(3) The National Intelligence Director may at any time recommend to the President a modification of the area of intelligence responsibility assigned to a national intelligence center under this section. The National Intelligence Director shall make any such recommendation through, and with the approval of, the National Security Council.

(h) SEPARATE BUDGET ACCOUNT.—The National Intelligence Director shall, in accordance with procedures to be issued by the Director in consultation with the congressional intelligence committees, include in the National Intelligence Program budget a separate line item for each national intelligence center under this section.

On page 99, line 21, strike ''(g)'' and insert ''(i)''.

SA 3798. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. URBAN AREA COMMUNICATIONS CAPABILITIES.

Section 510 of the Homeland Security Act of 2002, as added by this Act, is amended by inserting '', and shall have appropriate and timely access to the Information Sharing Network described in section 206(c) of the National Intelligence Reform Act of 2004'' after ''each other in the event of an emergency''.

SA 3799. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 137, line 20, strike ''and'' and all that follows through ''(9)'' on line 21, and insert the following:

(9) an estimate of training requirements needed to ensure that the Network will be adequately implemented and property utilized;

(10) an analysis of the cost to State, tribal, and local governments and private sector entities for equipment and training needed to effectively utilize the Network; and

(11)

SA 3800. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

Congress makes the following finding: (1) The United States needs to implement the recommendations of the National Commission on Terrorist Attacks Upon the United States to adopt a unified incident command system and significantly enhance communications connectivity between and among civilian authorities, local first responders, and the National Guard. The unified incident command system should enable emergency managers and first responders to manage, generate, receive, evaluate, share, and use information in the event of a terrorist attack or a significant national disaster.

SA 3801. Mr. KYL (for himself and Mr. CHAMBLISS) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 52, strike beginning with line 21 through page 56, line 8.

On page 154, strike beginning with line 8 through page 160, line 11 and insert the following:

(d) FUNCTIONS.—

(1) ADVICE AND COUNSEL ON POLICY DEVELOPMENT AND IMPLEMENTATION.—The Board shall—

(A) review proposed legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the development and adoption of information sharing guidelines under section 205(g);

(B) review the implementation of new and existing legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the implementation of information sharing guidelines under section 205(g); and

(C) advise the President and the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are appropriately considered in the development and implementation of such legislation, regulations, policies, and guidelines.

(2) OVERSIGHT.—The Board shall continually review—

(A) the regulations, policies, and procedures, and the implementation of the regulations, policies, and procedures, of the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are protected;

(B) the information sharing practices of the departments, agencies, and elements of the executive branch to determine whether they appropriately protect privacy and civil liberties and adhere to the information sharing guidelines prescribed under section 205(g) and to other governing laws, regulations, and policies regarding privacy and civil liberties; and

(C) other actions by the executive branch related to efforts to protect the Nation from terrorism to determine whether such actions—

(i) appropriately protect privacy and civil liberties; and

(ii) are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.

(3) TESTIMONY.—The Members of the Board shall appear and testify before Congress upon request.

(e) REPORTS.—

(1) IN GENERAL.—The Board shall periodically submit, not less than semiannually, reports—

(A)(i) to the appropriate committees of Congress, including the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(ii) to the President; and

(B) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

(2) CONTENTS.—Not less than 2 reports submitted each year under paragraph (1)(B) shall include—

(A) a description of the major activities of the Board during the preceding period; and

(B) information on the findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d).

(f) ACCESS TO INFORMATION.—

(1) AUTHORIZATION.—If determined by the Board to be necessary to carry out its responsibilities under this section, the Board is authorized to—

(A) have access from any department, agency, or element of the executive branch, or any Federal officer or employee, to all relevant records, reports, audits, reviews, documents, papers, recommendations, or other relevant material, including classified information consistent with applicable law;

(B) interview, take statements from, or take public testimony from personnel of any department, agency, or element of the executive branch, or any Federal officer or employee; and

(C) request information or assistance from any State, tribal, or local government.

(2) AGENCY COOPERATION.—Whenever information or assistance requested under subparagraph (A) or (B) of paragraph (1) is, in the judgment of the Board, unreasonably refused or not provided, the Board may submit a request directly to the head of the department, agency, or element concerned.

On page 164, strike beginning with line 21 through page 170, line 8.

SA 3802. Mr. LAUTENBERG (for himself, Mrs. CLINTON, Mr. FEINGOLD, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. TERRORIST FINANCING.

(a) CLARIFICATION OF CERTAIN ACTIONS UNDER IEEPA.—In any case in which the President takes action under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to prohibit a United States person from engaging in transactions with a foreign country, where a determination has been made by the Secretary of State that the government of that country has repeatedly provided support for acts of international terrorism, such action shall apply to any foreign subsidiaries or affiliate, including any permanent foreign establishment of that United States person, that is controlled in fact by that United States person.

(b) DEFINITIONS.—In this section:

(1) CONTROLLED IN FACT.—The term ''is controlled in fact'' includes—

(A) in the case of a corporation, holds at least 50 percent (by vote or value) of the capital structure of the corporation; and

(B) in the case of any other kind of legal entity, holds interests representing at least 50 percent of the capital structure of the entity.

(2) UNITED STATES PERSON.—The term ''United States person'' includes any United States citizen, permanent resident alien, entity organized under the law of the United States (including foreign branches), wherever located, or any other person in the United States.

(c) APPLICABILITY.—

(1) IN GENERAL.—In any case in which the President has taken action under the International Emergency Economic Powers Act and such action is in effect on the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 90 days after the date of enactment of this Act.

(2) ACTIONS AFTER DATE OF ENACTMENT.—In any case in which the President takes action under the International Emergency Economic Powers Act on or after the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 90 days after the date of such action.

SEC. ___. NOTIFICATION OF CONGRESS OF TERMINATION OF INVESTIGATION BY OFFICE OF FOREIGN ASSETS CONTROL.

(a) NOTIFICATION REQUIREMENT.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

''Sec. 42. Notification of Congress of termination of investigation by Office of Foreign Assets Control.''.

''The Director of the Office of Foreign Assets Control shall notify Congress upon the termination of any investigation by the Office of Foreign Assets Control of the Department of the Treasury if any sanction is imposed by the Director of such office as a result of the investigation.''.

SA 3838. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE IV—HUMAN SMUGGLING PENALTY ENHANCEMENT

SEC. 401. SHORT TITLE.

This title may be cited as the ''Human Smuggling Penalty Enhancement Act of 2004''.

SEC. 402. ENHANCED PENALTIES FOR ALIEN SMUGGLING.

Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) by striking ''knowing that a person is an alien, brings'' and inserting ''knowing or in reckless disregard of the fact that a person is an alien, brings'';

(II) by striking ''Commissioner'' and inserting ''Under Secretary for Border and Transportation Security''; and

(III) by inserting ''and regardless of whether the person bringing or attempting to bring such alien to the United States intended to violate any criminal law'' before the semicolon;

(ii) in clause (iv), by striking ''or'' at the end;

(iii) in clause (v)—

(I) in subclause (I), by striking '', or'' and inserting a semicolon;

(II) in subclause (II), by striking the comma and inserting ''; or''; and

(III) by inserting after subclause (II) the following:

''(III) attempts to commit any of the preceding acts; or''; and

(iv) by inserting after clause (v) the following:

''(vi) knowing or in reckless disregard of the fact that a person is an alien, causes or attempts to cause such alien to be transported or moved across an international boundary, knowing that such transportation or moving is part of such alien's effort to enter or attempt to enter the United States without prior official authorization;''; and

(B) in subparagraph (B)—

(i) in clause (i)—

(I) by striking ''or (v)(I)'' and inserting '', (v)(I), or (vi)''; and

(II) by striking ''10 years'' and inserting ''20 years'';

(ii) in clause (ii), by striking ''5 years'' and inserting ''10 years''; and

(iii) in clause (iii), by striking ''20 years'' and inserting ''35 years'';

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A)—

(i) by inserting '', or facilitates or attempts to facilitate the bringing or transporting,'' after ''attempts to bring''; and

(ii) by inserting ''and regardless of whether the person bringing or attempting to bring such alien to the United States intended to violate any criminal law,'' after ''with respect to such alien''; and

(B) in subparagraph (B)—

(i) in clause (ii), by striking '', or'' and inserting a semicolon;

(ii) in clause (iii), by striking the comma at the end and inserting ''; or'';

(iii) by inserting after clause (iii), the following:

''(iv) an offense committed with knowledge or reason to believe that the alien unlawfully brought to or into the United States has engaged in or intends to engage in terrorist activity (as defined in section 212(a)(3)(B)(iv)),''; and

(iv) in the matter following clause (iv), as added by this subparagraph, by striking ''3 nor more than 10 years'' and inserting ''5 years nor more than 20 years''; and

(3) in paragraph (3)(A), by striking ''5 years'' and inserting ''10 years''.

SEC. 403. AMENDMENT TO SENTENCING GUIDELINES RELATING TO ALIEN SMUGGLING OFFENSES.

(a) DIRECTIVE TO UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and related policy statements to implement the provisions of this title.

(b) REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the Sentencing Guidelines and Policy Statements reflect—

(A) the serious nature of the offenses and penalties referred to in this title;

(B) the growing incidence of alien smuggling offenses; and

(C) the need to deter, prevent, and punish such offenses;

(2) consider the extent to which the Sentencing Guidelines and Policy Statements adequately address whether the guideline offense levels and enhancements for violations of the sections amended by this title—

(A) sufficiently deter and punish such offenses; and

(B) adequately reflect the enhanced penalties established under this title;

(3) maintain reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the Sentencing Guidelines; and

(6) ensure that the Sentencing Guidelines adequately meet the purposes of sentencing

under section 3553(a)(2) of title 18, United States Code.

SA 3804. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 3 and 4, insert the following:

SEC. 145. OFFICE OF COMPETITIVE ANALYSIS.

(a) OFFICE OF COMPETITIVE ANALYSIS.—There is within the National Intelligence Authority an Office of Competitive Analysis.

(b) DIRECTOR OF OFFICE OF COMPETITIVE ANALYSIS.—(1) There is a Director of the Office of Competitive Analysis, who shall be the head of the Office of Competitive Analysis, and who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Any individual nominated for appointment as Director of the Office of Competitive Analysis shall have significant expertise in matters relating to United States foreign and defense policy and in matters relating to terrorism that threatens the national security of the United States.

(3) An individual serving as Director of the Office of Competitive Analysis may not, while so serving, serve in any capacity in any other element of the intelligence community.

(c) MISSION.—The primary mission of the Office of Competitive Analysis shall be as follows:

(1) To conduct detailed competitive evaluations of intelligence analysis (focusing on priorities identified by the National Intelligence Director, in consultation with the President) of—

(A) the National Intelligence Council;

(B) the elements of the intelligence community within the National Intelligence Program; and

(C) to the extent involving the analysis of national intelligence, other elements of the intelligence community.

(2) To conduct such additional competitive analysis as the Director of the Office of Competitive Analysis considers appropriate.

(d) STAFF.—(1) To assist the Director of the Office of Competitive Analysis in fulfilling the duties and responsibilities of the Director under this section, the National Intelligence Director shall employ in the Office of Competitive Analysis a professional staff having an expertise in matters relating to such duties and responsibilities.

(2) In providing for a professional staff for the Office under paragraph (1), the National Intelligence Director may establish as positions in the excepted service such positions in the Office as the National Intelligence Director considers appropriate.

(3) The National Intelligence Director shall ensure that the analytical staff of the Office is comprised primarily of experts from elements in the intelligence community and from the private sector as he deems appropriate.

(e) ACCESS TO INFORMATION.—In order to carry out the duties under this section, the Office of Competitive Analysis shall, unless otherwise directed by the President, have access to all analytic products, field reports, and raw intelligence of any element of the intelligence community.

(f) REPORTS.—Not later than January 31 each year, the Director of the Office of Competitive Analysis shall submit to the National Intelligence Director and the congressional intelligence committees on an annual basis a report that sets forth the results of its competitive evaluations of intelligence analysis under this section during the preceding year.

On page 172, line 2, insert ''**AND OFFICE OF COMPETITIVE ANALYSIS**'' before the period.

On page 172, line 5, insert ''or the Director of the Office of Competitive Analysis'' after ''National Counterterrorism Center''.

On page 172, beginning on line 23, strike ''and the Director of a national intelligence center'' and insert ''the Director of a national intelligence center, and the Director of the Office of Competitive Analysis''.

SA 3805. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. TREATMENT OF ACCELERATOR-PRODUCED AND OTHER RADIOACTIVE MATERIAL AS BYPRODUCT MATERIAL.

(a) DEFINITION OF BYPRODUCT MATERIAL.—Section 11e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)) is amended—

(1) by striking ''means (1) any radioactive'' and inserting ''means—

''(1) any radioactive'';

(2) by striking ''material, and (2) the tailings'' and inserting ''material;

''(2) the tailings''; and

(3) by striking ''content.'' and inserting ''content;

''(3)(A) any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after the date of enactment of this paragraph, for use in a commercial, medical, or research activity; or

''(B) any material that—

''(i) has been made radioactive by use of a particle accelerator; and

''(ii) is produced, extracted, or converted after extraction, before, on, or after the date of enactment of this paragraph, for use in a commercial, medical, or research activity; and

''(4) any discrete source of naturally occurring radioactive material, other than source material that—

''(A) the Nuclear Regulatory Commission determines (after consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency), would pose a threat similar to that posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

''(B) before, on, or after the date of enactment of this paragraph, is extracted or converted after extraction, for use in a commercial, medical, or research activity.''.

(b) AGREEMENTS.—Section 274b. of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (2) the following:

''(3) byproduct materials (as defined in section 11e.(3));

''(4) byproduct materials (as defined in section 11e.(4));''.

(c) REGULATIONS.—

(1) IN GENERAL.—Not later than the effective date of this section, the Nuclear Regulatory Commission shall promulgate final regulations establishing such requirements and standards as the Commission considers necessary for the acquisition, possession, transfer, use, or disposal of byproduct material (as defined in paragraphs (3) and (4) of section 11e. of the Atomic Energy Act of 1954 (as added by subsection (a))).

(2) COOPERATION.—The Commission shall cooperate with the States in formulating the regulations under paragraph (1).

(3) TRANSITION.—To ensure an orderly transition of regulatory authority with respect to byproduct material as defined in paragraphs (3) and (4) of section 11e. of the Atomic Energy Act of 1954 (as added by subsection (a)), not later than 180 days before the effective date of this section, the Nuclear Regulatory Commission shall prepare and provide public notice of a transition plan developed in coordination with States that—

(A) have not, before the effective date of this section, entered into an agreement with the Commission under section 274b. of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)); or

(B) in the case of a State that has entered into such an agreement, has not, before the effective date of this section, applied for an amendment to the agreement that would permit assumption by the State of regulatory responsibility for such byproduct material.

(d) WASTE DISPOSAL.—

(1) DEFINITION OF BYPRODUCT MATERIAL.—In this subsection, the term ''byproduct material'' has the meaning given the term in paragraphs (3) and (4) of section 11e. of the Atomic Energy Act of 1954 (as added by subsection (a)).

(2) IN GENERAL.—Beginning on the date of enactment of this Act, except as provided in paragraph (3), byproduct material may be transferred to and disposed of—

(A) in a disposal facility licensed by the Commission, if the disposal facility meets the requirements of the Commission; or

(B) in a disposal facility licensed by a State that has entered into an agreement with the Commission under section 274b. of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)), if the disposal facility meets requirements of the State that are equivalent to the requirements of the Commission.

(3) RCRA.—Byproduct material may be disposed of in accordance with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) to the same extent as the byproduct material was subject to that Act before the date of enactment of this section.

(4) NOT CONSIDERED LOW-LEVEL RADIOACTIVE WASTE.—Byproduct material shall not be considered low-level radioactive waste—

(A) as defined in section 2 of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b); or

(B) in implementing any Compact—

(1) entered into in accordance with the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.); and

(ii) approved by Congress.

(e) EFFECTIVE DATE.—Except with respect to matters that the Nuclear Regulatory Commission determines are required to be addressed earlier to protect the public health and safety or to promote the common defense and security, the amendments made by this section take effect on the date that is—

(1) with respect to imports and exports, 1 year after the date of enactment of this Act; and

(2) with respect to domestic matters, 4 years after the date of enactment of this Act.

SA 3806. Mr. MCCAIN (for himself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, to reform the

intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the end of the bill, add the following:

TITLE ____—PRESIDENTIAL TRANSITION

SEC. ___01. PRESIDENTIAL TRANSITION.

(a) SERVICES PROVIDED PRESIDENT-ELECT.—Section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended—

(1) by adding after subsection (a)(8)(A)(iv) the following:

''(v) Activities under this paragraph shall include the preparation of a detailed classified, compartmented summary by the relevant outgoing executive branch officials of specific operational threats to national security; major military or covert operations; and pending decisions on possible uses of military force. This summary shall be provided to the President-elect as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.'';

(2) by redesignating subsection (f) as subsection (g); and

(3) by adding after subsection (e) the following:

''(f)(1) The President-elect should submit to the Federal Bureau of Investigation or other appropriate agency and then, upon taking effect and designation, to the agency designated by the President under section 115(b) of the National Intelligence Reform Act of 2004, the names of candidates for high level national security positions through the level of undersecretary of cabinet departments as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.

''(2) The responsible agency or agencies shall undertake and complete as expeditiously as possible the background investigations necessary to provide appropriate security clearances to the individuals who are candidates described under paragraph (1) before the date of the inauguration of the President-elect as President and the inauguration of the Vice-President-elect as Vice President.''.

(b) SENSE OF THE SENATE REGARDING EXPEDITED CONSIDERATION OF NATIONAL SECURITY NOMINEES.—It is the sense of the Senate that—

(1) the President-elect should submit the nominations of candidates for high-level national security positions, through the level of undersecretary of cabinet departments, to the Senate by the date of the inauguration of the President-elect as President; and

(2) for all such national security nominees received by the date of inauguration, the Senate committees to which these nominations are referred should, to the fullest extent possible, complete their consideration of these nominations, and, if such nominations are reported by the committees, the full Senate should vote to confirm or reject these nominations, within 30 days of their submission.

(c) SECURITY CLEARANCES FOR TRANSITION TEAM MEMBERS.—

(1) DEFINITION.—In this section, the term ''major party'' shall have the meaning given under section 9002(6) of the Internal Revenue Code of 1986.

(2) IN GENERAL.—Each major party candidate for President may submit, before the date of the general election, requests for security clearances for prospective transition team members who will have a need for access to classified information to carry out their responsibilities as members of the President-elect's transition team.

(3) COMPLETION DATE.—Necessary background investigations and eligibility determinations to permit appropriate prospective transition team members to have access to classified information shall be completed, to the fullest extent practicable, by the day after the date of the general election.

(d) EFFECTIVE DATE.—Notwithstanding section 341, this section and the amendments made by this section shall take effect on the date of enactment of this Act.

SA 3807. Mr. MCCAIN (for himself and Mr. LEIBERMAN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE ____—TERRORIST TRAVEL AND EFFECTIVE SCREENING

SEC. ___01. COUNTERTERRORIST TRAVEL INTELLIGENCE.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Travel documents are as important to terrorists as weapons since terrorists must travel clandestinely to meet, train, plan, case targets, and gain access to attack sites.

(2) International travel is dangerous for terrorists because they must surface to pass through regulated channels, present themselves to border security officials, or attempt to circumvent inspection points.

(3) Terrorists use evasive, but detectable, methods to travel, such as altered and counterfeit passports and visas, specific travel methods and routes, liaisons with corrupt government officials, human smuggling networks, supportive travel agencies, and immigration and identity fraud.

(4) Before September 11, 2001, no Federal agency systematically analyzed terrorist travel strategies. If an agency had done so, the agency could have discovered the ways in which the terrorist predecessors to al Qaeda had been systematically, but detectably, exploiting weaknesses in our border security since the early 1990s.

(5) Many of the hijackers were potentially vulnerable to interception by border authorities. Analyzing their characteristic travel documents and travel patterns could have allowed authorities to intercept some of the hijackers and a more effective use of information available in Government databases could have identified some of the hijackers.

(6) The routine operations of our immigration laws and the aspects of those laws not specifically aimed at protecting against terrorism inevitably shaped al Qaeda's planning and opportunities.

(7) New insights into terrorist travel gained since September 11, 2001, have not been adequately integrated into the front lines of border security.

(8) The small classified terrorist travel intelligence collection and analysis program currently in place has produced useful results and should be expanded.

(b) STRATEGY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress unclassified and classified versions of a strategy for combining terrorist travel intelligence, operations, and law enforcement into a cohesive effort to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility domestically and internationally. The report to Congress should include a description of the actions taken to implement the strategy.

(2) ACCOUNTABILITY.—The strategy submitted under paragraph (1) shall—

(A) describe a program for collecting, analyzing, disseminating, and utilizing information and intelligence regarding terrorist travel tactics and methods; and

(B) outline which Federal intelligence, diplomatic, and law enforcement agencies will be held accountable for implementing each element of the strategy.

(3) COORDINATION.—The strategy shall be developed in coordination with all relevant Federal agencies, including—

(A) the National Counterterrorism Center;

(B) the Department of Transportation;

(C) the Department of State;

(D) the Department of the Treasury;

(E) the Department of Justice;

(F) the Department of Defense;

(G) the Federal Bureau of Investigation;

(H) the Drug Enforcement Agency; and

(I) the agencies that comprise the intelligence community.

(4) CONTENTS.—The strategy shall address—

(A) the intelligence and law enforcement collection, analysis, operations, and reporting required to identify and disrupt terrorist travel practices and trends, and the terrorist travel facilitators, document forgers, human smugglers, travel agencies, and corrupt border and transportation officials who assist terrorists;

(B) the initial and ongoing training and training materials required by consular, border, and immigration officials to effectively detect and disrupt terrorist travel described under subsection (c)(3);

(C) the new procedures required and actions to be taken to integrate existing counterterrorist travel and mobility intelligence into border security processes, including consular, port of entry, border patrol, maritime, immigration benefits, and related law enforcement activities;

(D) the actions required to integrate current terrorist mobility intelligence into military force protection measures;

(E) the additional assistance to be given to the interagency Human Smuggling and Trafficking Center for purposes of combatting terrorist travel, including further developing and expanding enforcement and operational capabilities that address terrorist travel;

(F) the additional resources to be given to the Department of Homeland Security to aid in the sharing of information between the frontline border agencies of the Department of Homeland Security, the Department of State, and classified and unclassified sources of counterterrorist travel intelligence and information elsewhere in the Federal Government, including the Human Smuggling and Trafficking Center;

(G) the development and implementation of procedures to enable the Human Smuggling and Trafficking Center to timely receive terrorist travel intelligence and documentation obtained at consulates and ports of entry, and by law enforcement officers and military personnel;

(H) the use of foreign and technical assistance to advance border security measures and law enforcement operations against terrorist travel facilitators;

(I) the development of a program to provide each consular, port of entry, and immigration benefits office with a counterterrorist travel expert trained and authorized to use the relevant authentication technologies and cleared to access all appropriate immigration, law enforcement, and intelligence databases;

(J) the feasibility of digitally transmitting passport information to a central cadre of specialists until such time as experts described under subparagraph (I) are available

at consular, port of entry, and immigration benefits offices; and

(K) granting consular officers and immigration adjudicators, as appropriate, the security clearances necessary to access law enforcement sensitive and intelligence databases.

(c) FRONTLINE COUNTERTERRORIST TRAVEL TECHNOLOGY AND TRAINING.—

(1) TECHNOLOGY ACQUISITION AND DISSEMINATION PLAN.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in conjunction with the Secretary of State, shall submit to Congress a plan describing how the Department of Homeland Security and the Department of State can acquire and deploy, to all consulates, ports of entry, and immigration benefits offices, technologies that facilitate document authentication and the detection of potential terrorist indicators on travel documents.

(2) CONTENTS OF PLAN.—The plan submitted under paragraph (1) shall—

(A) outline the timetable needed to acquire and deploy the authentication technologies;

(B) identify the resources required to—

(i) fully disseminate these technologies; and

(ii) train personnel on use of these technologies; and

(C) address the feasibility of using these technologies to screen every passport or other documentation described in section ___04(b) submitted for identification purposes to a United States consular, border, or immigration official.

(3) TRAINING PROGRAM.—

(A) IN GENERAL.—The Secretary of Homeland Security and the Secretary of State shall develop and implement initial and ongoing annual training programs for consular, border, and immigration officials who encounter or work with travel or immigration documents as part of their duties to teach such officials how to effectively detect and disrupt terrorist travel.

(B) TERRORIST TRAVEL INTELLIGENCE.—The Secretary may assist State, local, and tribal governments, and private industry, in establishing training programs related to terrorist travel intelligence.

(C) TRAINING TOPICS.—The training developed under this paragraph shall include training in—

(i) methods for identifying fraudulent documents;

(ii) detecting terrorist indicators on travel documents;

(iii) recognizing travel patterns, tactics, and behaviors exhibited by terrorists;

(iv) the use of information contained in available databases and data systems and procedures to maintain the accuracy and integrity of such systems; and

(v) other topics determined necessary by the Secretary of Homeland Security and the Secretary of State.

(D) CERTIFICATION.—Not later than 1 year after the date of enactment of this Act—

(i) the Secretary of Homeland Security shall certify to Congress that all border and immigration officials who encounter or work with travel or immigration documents as part of their duties have received training under this paragraph; and

(ii) the Secretary of State shall certify to Congress that all consular officers who encounter or work with travel or immigration documents as part of their duties have received training under this paragraph.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out the provisions of this subsection.

(d) ENHANCING CLASSIFIED COUNTERTERRORIST TRAVEL EFFORTS.—

(1) IN GENERAL.—The National Intelligence Director shall significantly increase resources and personnel to the small classified program that collects and analyzes intelligence on terrorist travel.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this subsection.

SEC. ___02. INTEGRATED SCREENING SYSTEM.

(a) IN GENERAL.—The Secretary of Homeland Security shall develop a plan for a comprehensive integrated screening system.

(b) DESIGN.—The system planned under subsection (a) shall be designed to—

(1) encompass an integrated network of screening points that includes the Nation's border security system, transportation system, and critical infrastructure or facilities that the Secretary determines need to be protected against terrorist attack;

(2) build upon existing border enforcement and security activities, and to the extent practicable, private sector security initiatives, in a manner that will enable the utilization of a range of security check points in a continuous and consistent manner throughout the Nation's screening system;

(3) allow access to government databases to detect terrorists; and

(4) utilize biometric identifiers that the Secretary determines to be appropriate, feasible, and if practicable, compatible with the biometric entry and exit data system described in section ___03.

(c) STANDARDS FOR SCREENING PROCEDURES.—

(1) AUTHORIZATION.—The Secretary may promulgate standards for screening procedures for—

(A) entering and leaving the United States;

(B) accessing Federal facilities that the Secretary determines need to be protected against terrorist attack;

(C) accessing critical infrastructure that the Secretary determines need to be protected against terrorist attack; and

(D) accessing modes of transportation that the Secretary determines need to be protected against terrorist attack.

(2) SCOPE.—Standards prescribed under this subsection may address a range of factors, including technologies required to be used in screening and requirements for secure identification.

(3) REQUIREMENTS.—In promulgating standards for screening procedures, the Secretary shall—

(A) consider and incorporate appropriate civil liberties and privacy protections;

(B) comply with the Administrative Procedure Act; and

(C) consult with other Federal, State, local, and tribal governments, private parties, and other interested parties, as appropriate.

(4) LIMITATION.—This section does not confer to the Secretary new statutory authority, or alter existing authorities, over systems, critical infrastructure, and facilities.

(5) NOTIFICATION.—If the Secretary determines that additional regulatory authority is needed to fully implement the plan for an integrated screening system, the Secretary shall immediately notify Congress.

(d) COMPLIANCE.—The Secretary may issue regulations to ensure compliance with the standards promulgated under this section.

(e) CONSULTATION.—For those systems, critical infrastructure, and facilities that the Secretary determines need to be protected against terrorist attack, the Secretary shall consult with other Federal agencies, State, local, and tribal governments, and the private sector to ensure the development of consistent standards and consistent implementation of the integrated screening system.

(f) BIOMETRIC IDENTIFIERS.—In carrying out this section, the Secretary shall continue to review biometric technologies and existing Federal and State programs using biometric identifiers. Such review shall consider the accuracy rate of available technologies.

(g) MAINTAINING ACCURACY AND INTEGRITY OF THE INTEGRATED SCREENING SYSTEM.—

(1) IN GENERAL.—The Secretary shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, the integrated screening system that ensure the accuracy and integrity of the data.

(2) DATA MAINTENANCE PROCEDURES.—Each head of a Federal agency that has databases and data systems linked to the integrated screening system shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, such databases or data systems that ensure the accuracy and integrity of the data.

(3) REQUIREMENTS.—The rules, guidelines, policies, and procedures established under this subsection shall—

(A) incorporate a simple and timely method for—

(i) correcting errors;

(ii) determining which government agency or entity provided data so that the accuracy of the data can be ascertained; and

(iii) clarifying information known to cause false hits or misidentification errors; and

(B) include procedures for individuals to—

(i) seek corrections of data contained in the databases or data systems; and

(ii) appeal decisions concerning data contained in the databases or data systems.

(h) IMPLEMENTATION.—

(1) PHASE I.—The Secretary shall—

(A) develop plans for, and begin implementation of, a single program for registered travelers to expedite travel across the border, as required under section ___03(g);

(B) continue the implementation of a biometric exit and entry data system that links to relevant databases and data systems, as required by subsections (c) through (f) of section ___03 and other existing authorities;

(C) centralize the ''no-fly'' and ''automatic-selectee'' lists, making use of improved terrorists watch lists, as required by section ___03;

(D) develop plans, in consultation with other relevant agencies, for the sharing of terrorist information with trusted governments, as required by section ___05;

(E) initiate any other action determined appropriate by the Secretary to facilitate the implementation of this paragraph; and

(F) report to Congress on the implementation of phase I, including—

(i) the effectiveness of actions taken, the efficacy of resources expended, compliance with statutory provisions, and safeguards for privacy and civil liberties; and

(ii) plans for the development and implementation of phases II and III.

(2) PHASE II.—The Secretary shall—

(A) complete the implementation of a single program for registered travelers to expedite travel across the border, as required by section ___03(g);

(B) complete the implementation of a biometric entry and exit data system that links to relevant databases and data systems, as required by subsections (c) through (f) of section ___03, and other existing authorities;

(C) in cooperation with other relevant agencies, engage in dialogue with foreign

governments to develop plans for the use of common screening standards;

(D) initiate any other action determined appropriate by the Secretary to facilitate the implementation of this paragraph; and

(E) report to Congress on the implementation of phase II, including—

(i) the effectiveness of actions taken, the efficacy of resources expended, compliance with statutory provisions, and safeguards for privacy and civil liberties; and

(ii) the plans for the development and implementation of phase III.

(3) PHASE III.—The Secretary shall—

(A) finalize and deploy the integrated screening system required by subsection (a);

(B) in cooperation with other relevant agencies, promote the implementation of common screening standards by foreign governments; and

(C) report to Congress on the implementation of Phase III, including—

(i) the effectiveness of actions taken, the efficacy of resources expended, compliance with statutory provisions, and safeguards for privacy and civil liberties; and

(ii) the plans for the ongoing operation of the integrated screening system.

(i) REPORT.—After phase III has been implemented, the Secretary shall submit a report to Congress every 3 years that describes the ongoing operation of the integrated screening system, including its effectiveness, efficient use of resources, compliance with statutory provisions, and safeguards for privacy and civil liberties.

(j) AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out the provisions of this section.

SEC. ____03. BIOMETRIC ENTRY AND EXIT DATA SYSTEM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that completing a biometric entry and exit data system as expeditiously as possible is an essential investment in efforts to protect the United States by preventing the entry of terrorists.

(b) DEFINITION.—In this section, the term ''entry and exit data system'' means the entry and exit system required by applicable sections of—

(1) the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208);

(2) the Immigration and Naturalization Service Data Management Improvement Act of 2000 (Public Law 106–205);

(3) the Visa Waiver Permanent Program Act (Public Law 106–396);

(4) the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173); and

(5) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107–56).

(c) PLAN AND REPORT.—

(1) DEVELOPMENT OF PLAN.—The Secretary of Homeland Security shall develop a plan to accelerate the full implementation of an automated biometric entry and exit data system.

(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress on the plan developed under paragraph (1), which shall contain—

(A) a description of the current functionality of the entry and exit data system, including—

(i) a listing of ports of entry and other Department of Homeland Security and Department of State locations with biometric entry data systems in use and whether such screening systems are located at primary or secondary inspection areas;

(ii) a listing of ports of entry and other Department of Homeland Security and Department of State locations with biometric exit data systems in use;

(iii) a listing of databases and data systems with which the entry and exit data system are interoperable;

(iv) a description of—

(I) identified deficiencies concerning the accuracy or integrity of the information contained in the entry and exit data system;

(II) identified deficiencies concerning technology associated with processing individuals through the system; and

(III) programs or policies planned or implemented to correct problems identified in subclause (I) or (II); and

(v) an assessment of the effectiveness of the entry and exit data system in fulfilling its intended purposes, including preventing terrorists from entering the United States;

(B) a description of factors relevant to the accelerated implementation of the biometric entry and exit data system, including—

(i) the earliest date on which the Secretary estimates that full implementation of the biometric entry and exit data system can be completed;

(ii) the actions the Secretary will take to accelerate the full implementation of the biometric entry and exit data system at all ports of entry through which all aliens must pass that are legally required to do so; and

(iii) the resources and authorities required to enable the Secretary to meet the implementation date described in clause (i);

(C) a description of any improvements needed in the information technology employed for the biometric entry and exit data system;

(D) a description of plans for improved or added interoperability with any other databases or data systems; and

(E) a description of the manner in which the Department of Homeland Security's US-VISIT program—

(i) meets the goals of a comprehensive entry and exit screening system, including both entry and exit biometric; and

(ii) fulfills the statutory obligations under subsection (b).

(d) COLLECTION OF BIOMETRIC EXIT DATA.—The entry and exit data system shall include a requirement for the collection of biometric exit data for all categories of individuals who are required to provide biometric entry data, regardless of the port of entry where such categories of individuals entered the United States.

(e) INTEGRATION AND INTEROPERABILITY.—

(1) INTEGRATION OF DATA SYSTEM.—Not later than 2 years after the date of enactment of this Act, the Secretary shall fully integrate all databases and data systems that process or contain information on aliens, which are maintained by—

(A) the Department of Homeland Security, at—

(i) the United States Immigration and Customs Enforcement;

(ii) the United States Customs and Border Protection; and

(iii) the United States Citizenship and Immigration Services;

(B) the Department of Justice, at the Executive Office for Immigration Review; and

(C) the Department of State, at the Bureau of Consular Affairs.

(2) INTEROPERABLE COMPONENT.—The fully integrated data system under paragraph (1) shall be an interoperable component of the entry and exit data system.

(3) INTEROPERABLE DATA SYSTEM.—Not later than 2 years after the date of enactment of this Act, the Secretary shall fully implement an interoperable electronic data system, as required by section 202 of the Enhanced Border Security and Visa Entry Reform Act (8 U.S.C. 1722) to provide current and immediate access to information in the databases of Federal law enforcement agencies and the intelligence community that is relevant to determine—

(A) whether to issue a visa; or

(B) the admissibility or deportability of an alien.

(f) MAINTAINING ACCURACY AND INTEGRITY OF ENTRY AND EXIT DATA SYSTEM.—

(1) IN GENERAL.—The Secretary shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, the entry and exit data system that ensure the accuracy and integrity of the data.

(2) DATA MAINTENANCE PROCEDURES.—Heads of agencies that have databases or data systems linked to the entry and exit data system shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, such databases or data systems that ensure the accuracy and integrity of the data.

(3) REQUIREMENTS.—The rules, guidelines, policies, and procedures established under this subsection shall—

(A) incorporate a simple and timely method for—

(i) correcting errors;

(ii) determining which government agency or entity provided data so that the accuracy of the data can be ascertained; and

(iii) clarifying information known to cause false hits or misidentification errors; and

(B) include procedures for individuals to—

(i) seek corrections of data contained in the databases or data systems; and

(ii) appeal decisions concerning data contained in the databases or data systems.

(g) EXPEDITING REGISTERED TRAVELERS ACROSS INTERNATIONAL BORDERS.—

(1) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that—

(A) expediting the travel of previously screened and known travelers across the borders of the United States should be a high priority; and

(B) the process of expediting known travelers across the borders of the United States can permit inspectors to better focus on identifying terrorists attempting to enter the United States.

(2) DEFINITION.—In this subsection, the term ''registered traveler program'' means any program designed to expedite the travel of previously screened and known travelers across the borders of the United States.

(3) REGISTERED TRAVEL PROGRAM.—

(A) IN GENERAL.—As soon as is practicable, the Secretary shall develop and implement a registered traveler program to expedite the processing of registered travelers who enter and exit the United States.

(B) PARTICIPATION.—The registered traveler program shall include as many participants as practicable by—

(i) minimizing the cost of enrollment;

(ii) making program enrollment convenient and easily accessible; and

(iii) providing applicants with clear and consistent eligibility guidelines.

(C) INTEGRATION.—The registered traveler program shall be integrated into the automated biometric entry and exit data system described in this section.

(D) REVIEW AND EVALUATION.—In developing the registered traveler program, the Secretary shall—

(i) review existing programs or pilot projects designed to expedite the travel of

registered travelers across the borders of the United States;

(ii) evaluate the effectiveness of the programs described in clause (i), the costs associated with such programs, and the costs to travelers to join such programs;

(iii) increase research and development efforts to accelerate the development and implementation of a single registered traveler program; and

(iv) review the feasibility of allowing participants to enroll in the registered traveler program at consular offices.

(4) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the Department's progress on the development and implementation of the registered traveler program.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary, for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out the provisions of this section.

SEC. ___04. TRAVEL DOCUMENTS.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that—

(1) existing procedures allow many individuals to enter the United States by showing minimal identification or without showing any identification;

(2) the planning for the terrorist attacks of September 11, 2001, demonstrates that terrorists study and exploit United States vulnerabilities; and

(3) additional safeguards are needed to ensure that terrorists cannot enter the United States.

(b) BIOMETRIC PASSPORTS.—

(1) DEVELOPMENT OF PLAN.—The Secretary of State, in consultation with the Secretary of Homeland Security, shall develop and implement a plan as expeditiously as possible to require biometric passports or other identification deemed by the Secretary of State to be at least as secure as a biometric passport, for all travel into the United States by United States citizens and by categories of individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(4)(B)).

(2) REQUIREMENT TO PRODUCE DOCUMENTATION.—The plan developed under paragraph (1) shall require all United States citizens, and categories of individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of such Act, to carry and produce the documentation described in paragraph (1) when traveling from foreign countries into the United States.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—After the complete implementation of the plan described in subsection (b)—

(1) neither the Secretary of State nor the Secretary of Homeland Security may exercise discretion under section 212(d)(4)(B) of such Act to waive documentary requirements for travel into the United States; and

(2) the President may not exercise discretion under section 215(b) of such Act (8 U.S.C. 1185(b)) to waive documentary requirements for United States citizens departing from or entering, or attempting to depart from or enter, the United States except—

(A) where the Secretary of State, in consultation with the Secretary of Homeland Security, determines that the alternative documentation that is the basis for the waiver of the documentary requirement is at least as secure as a biometric passport;

(B) in the case of an unforeseen emergency in individual cases; or

(C) in the case of humanitarian or national interest reasons in individual cases.

(d) TRANSIT WITHOUT VISA PROGRAM.—The Secretary of State shall not use any authorities granted under section 212(d)(4)(C) of such Act until the Secretary, in conjunction with the Secretary of Homeland Security, completely implements a security plan to fully ensure secure transit passage areas to prevent aliens proceeding in immediate and continuous transit through the United States from illegally entering the United States.

SEC. ___05. EXCHANGE OF TERRORIST INFORMATION AND INCREASED PREINSPECTION AT FOREIGN AIRPORTS.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that—

(1) the exchange of terrorist information with other countries, consistent with privacy requirements, along with listings of lost and stolen passports, will have immediate security benefits; and

(2) the further away from the borders of the United States that screening occurs, the more security benefits the United States will gain.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States Government should exchange terrorist information with trusted allies;

(2) the United States Government should move toward real-time verification of passports with issuing authorities;

(3) where practicable the United States Government should conduct screening before a passenger departs on a flight destined for the United States;

(4) the United States Government should work with other countries to ensure effective inspection regimes at all airports;

(5) the United States Government should work with other countries to improve passport standards and provide foreign assistance to countries that need help making the transition to the global standard for identification; and

(6) the Department of Homeland Security, in coordination with the Department of State and other agencies, should implement the initiatives called for in this subsection.

(c) REPORT REGARDING THE EXCHANGE OF TERRORIST INFORMATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of State and the Secretary of Homeland Security, working with other agencies, shall submit to the appropriate committees of Congress a report on Federal efforts to collaborate with allies of the United States in the exchange of terrorist information.

(2) CONTENTS.—The report shall outline—

(A) strategies for increasing such collaboration and cooperation;

(B) progress made in screening passengers before their departure to the United States; and

(C) efforts to work with other countries to accomplish the goals described under this section.

(d) PREINSPECTION AT FOREIGN AIRPORTS.—

(1) IN GENERAL.—Section 235A(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225a(a)(4)) is amended to read as follows:

''(4) Subject to paragraph (5), not later than January 1, 2008, the Secretary of Homeland Security, in consultation with the Secretary of State, shall establish preinspection stations in at least 25 additional foreign airports, which the Secretary of Homeland Security, in consultation with the Secretary of State, determines, based on the data compiled under paragraph (3) and such other information as may be available, would most effectively facilitate the travel of admissible aliens and reduce the number of inadmissible aliens, especially aliens who are potential terrorists, who arrive from abroad by air at points of entry within the United States. Such preinspection stations shall be in addition to those established prior to September 30, 1996, or pursuant to paragraph (1).''.

(2) REPORT.—Not later than June 30, 2006, the Secretary of Homeland Security and the Secretary of State shall submit a report on the progress being made in implementing the amendment made by paragraph (1) to—

(A) the Committee on the Judiciary of the Senate;

(B) the Committee on the Judiciary of the House of Representatives;

(C) the Committee on Foreign Relations of the Senate; and

(D) the Committee on International Relations of the House of Representatives.

SEC. ___06. MINIMUM STANDARDS FOR BIRTH CERTIFICATES.

(a) DEFINITION.—In this section, the term 'birth certificate' means a certificate of birth—

(1) for an individual (regardless of where born)—

(A) who is a citizen or national of the United States at birth; and

(B) whose birth is registered in the United States; and

(2) that—

(A) is issued by a Federal, State, or local government agency or authorized custodian of record and produced from birth records maintained by such agency or custodian of record; or

(B) is an authenticated copy, issued by a Federal, State, or local government agency or authorized custodian of record, of an original certificate of birth issued by such agency or custodian of record.

(b) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

(1) IN GENERAL.—Beginning 2 years after the promulgation of minimum standards under paragraph (3), no Federal agency may accept a birth certificate for any official purpose unless the certificate conforms to such standards.

(2) STATE CERTIFICATION.—

(A) IN GENERAL.—Each State shall certify to the Secretary of Health and Human Services that the State is in compliance with the requirements of this section.

(B) FREQUENCY.—Certifications under subparagraph (A) shall be made at such intervals and in such a manner as the Secretary of Health and Human Services, with the concurrence of the Secretary of Homeland Security and the Commissioner of Social Security, may prescribe by regulation.

(C) COMPLIANCE.—Each State shall ensure that units of local government and other authorized custodians of records in the State comply with this section.

(D) AUDITS.—The Secretary of Health and Human Services may conduct periodic audits of each State's compliance with the requirements of this section.

(3) MINIMUM STANDARDS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall by regulation establish minimum standards for birth certificates for use by Federal agencies for official purposes that—

(A) at a minimum, shall require certification of the birth certificate by the State or local government custodian of record that issued the certificate, and shall require the use of safety paper or an alternative, equally secure medium, the seal of the issuing custodian of record, and other features designed to prevent tampering, counterfeiting, or otherwise duplicating the birth certificate for fraudulent purposes;

(B) shall establish requirements for proof and verification of identity as a condition of issuance of a birth certificate, with additional security measures for the issuance of a birth certificate for a person who is not the applicant;

(C) shall establish standards for the processing of birth certificate applications to prevent fraud;

(D) may not require a single design to which birth certificates issued by all States must conform; and

(E) shall accommodate the differences between the States in the manner and form in which birth records are stored and birth certificates are produced from such records.

(4) CONSULTATION WITH GOVERNMENT AGENCIES.—In promulgating the standards required under paragraph (3), the Secretary of Health and Human Services shall consult with—

(A) the Secretary of Homeland Security;

(B) the Commissioner of Social Security;

(C) State vital statistics offices; and

(D) other appropriate Federal agencies.

(5) EXTENSION OF EFFECTIVE DATE.—The Secretary of Health and Human Services may extend the date specified under paragraph (1) for up to 2 years for birth certificates issued by a State if the Secretary determines that the State made reasonable efforts to comply with the date under paragraph (1) but was unable to do so.

(c) GRANTS TO STATES.—

(1) ASSISTANCE IN MEETING FEDERAL STANDARDS.—

(A) IN GENERAL.—Beginning on the date a final regulation is promulgated under subsection (b)(3), the Secretary of Health and Human Services shall award grants to States to assist them in conforming to the minimum standards for birth certificates set forth in the regulation.

(B) ALLOCATION OF GRANTS.—The Secretary shall award grants to States under this paragraph based on the proportion that the estimated average annual number of birth certificates issued by a State applying for a grant bears to the estimated average annual number of birth certificates issued by all States.

(C) MINIMUM ALLOCATION.—Notwithstanding subparagraph (B), each State shall receive not less than 0.5 percent of the grant funds made available under this paragraph.

(2) ASSISTANCE IN MATCHING BIRTH AND DEATH RECORDS.—

(A) IN GENERAL.—The Secretary of Health and Human Services, in coordination with the Commissioner of Social Security and other appropriate Federal agencies, shall award grants to States, under criteria established by the Secretary, to assist States in—

(i) computerizing their birth and death records;

(ii) developing the capability to match birth and death records within each State and among the States; and

(iii) noting the fact of death on the birth certificates of deceased persons.

(B) ALLOCATION OF GRANTS.—The Secretary shall award grants to qualifying States under this paragraph based on the proportion that the estimated annual average number of birth and death records created by a State applying for a grant bears to the estimated annual average number of birth and death records originated by all States.

(C) MINIMUM ALLOCATION.—Notwithstanding subparagraph (B), each State shall receive not less than 0.5 percent of the grant funds made available under this paragraph.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this section.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—Section 656 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (5 U.S.C. 301 note) is repealed.

SEC. ___07. DRIVER'S LICENSES AND PERSONAL IDENTIFICATION CARDS.

(a) DEFINITIONS.—In this section:

(1) DRIVER'S LICENSE.—The term 'driver's license' means a motor vehicle operator's license as defined in section 30301(5) of title 49, United States Code.

(2) PERSONAL IDENTIFICATION CARD.—The term 'personal identification card' means an identification document (as defined in section 1028(d)(3) of title 18, United States Code) issued by a State.

(b) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

(1) IN GENERAL.—

(A) LIMITATION ON ACCEPTANCE.—No Federal agency may accept, for any official purpose, a driver's license or personal identification card newly issued by a State more than 2 years after the promulgation of the minimum standards under paragraph (2) unless the driver's license or personal identification card conforms to such minimum standards.

(B) DATE FOR CONFORMANCE.—The Secretary of Transportation, in consultation with the Secretary of Homeland Security, shall establish a date after which no driver's license or personal identification card shall be accepted by a Federal agency for any official purpose unless such driver's license or personal identification card conforms to the minimum standards established under paragraph (2). The date shall be as early as the Secretary determines it is practicable for the States to comply with such date with reasonable efforts.

(C) STATE CERTIFICATION.—

(i) IN GENERAL.—Each State shall certify to the Secretary of Transportation that the State is in compliance with the requirements of this section.

(ii) FREQUENCY.—Certifications under clause (i) shall be made at such intervals and in such a manner as the Secretary of Transportation, with the concurrence of the Secretary of Homeland Security, may prescribe by regulation.

(iii) AUDITS.—The Secretary of Transportation may conduct periodic audits of each State's compliance with the requirements of this section.

(2) MINIMUM STANDARDS.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Homeland Security, shall by regulation, establish minimum standards for driver's licenses or personal identification cards issued by a State for use by Federal agencies for identification purposes that shall include—

(A) standards for documentation required as proof of identity of an applicant for a driver's license or personal identification card;

(B) standards for the verifiability of documents used to obtain a driver's license or personal identification card;

(C) standards for the processing of applications for driver's licenses and personal identification cards to prevent fraud;

(D) security standards to ensure that driver's licenses and personal identification cards are—

(i) resistant to tampering, alteration, or counterfeiting; and

(ii) capable of accommodating and ensuring the security of a digital photograph or other unique identifier; and

(E) a requirement that a State confiscate a driver's license or personal identification card if any component or security feature of the license or identification card is compromised.

(3) CONTENT OF REGULATIONS.—The regulations required by paragraph (2)—

(A) shall facilitate communication between the chief driver licensing official of a State, an appropriate official of a Federal agency and other relevant officials, to verify the authenticity of documents, as appropriate, issued by such Federal agency or entity and presented to prove the identity of an individual;

(B) may not infringe on a State's power to set criteria concerning what categories of individuals are eligible to obtain a driver's license or personal identification card from that State;

(C) may not require a State to comply with any such regulation that conflicts with or otherwise interferes with the full enforcement of State criteria concerning the categories of individuals that are eligible to obtain a driver's license or personal identification card from that State;

(D) may not require a single design to which driver's licenses or personal identification cards issued by all States must conform; and

(E) shall include procedures and requirements to protect the privacy and civil and due process rights of individuals who apply for and hold driver's licenses and personal identification cards.

(4) NEGOTIATED RULEMAKING.—

(A) IN GENERAL.—Before publishing the proposed regulations required by paragraph (2) to carry out this title, the Secretary of Transportation shall establish a negotiated rulemaking process pursuant to subchapter IV of chapter 5 of title 5, United States Code (5 U.S.C. 581 et seq.).

(B) REPRESENTATION ON NEGOTIATED RULEMAKING COMMITTEE.—Any negotiated rulemaking committee established by the Secretary of Transportation pursuant to subparagraph (A) shall include representatives from—

(i) among State offices that issue driver's licenses or personal identification cards;

(ii) among State elected officials;

(iii) the Department of Homeland Security; and

(iv) among interested parties, including organizations with technological and operational expertise in document security and organizations that represent the interests of applicants for such licenses or identification cards.

(C) TIME REQUIREMENT.—The process described in subparagraph (A) shall be conducted in a timely manner to ensure that—

(i) any recommendation for a proposed rule or report is provided to the Secretary of Transportation not later than 9 months after the date of enactment of this Act and may include an assessment of the benefits and costs of the recommendations; and

(ii) a final rule is promulgated not later than 18 months after the date of enactment of this Act.

(c) GRANTS TO STATES.—

(1) ASSISTANCE IN MEETING FEDERAL STANDARDS.—Beginning on the date a final regulation is promulgated under subsection (b)(2), the Secretary of Transportation shall award grants to States to assist them in conforming to the minimum standards for driver's licenses and personal identification cards set forth in the regulation.

(2) ALLOCATION OF GRANTS.—The Secretary of Transportation shall award grants to States under this subsection based on the proportion that the estimated average annual number of driver's licenses and personal identification cards issued by a State applying for a grant bears to the average annual number of such documents issued by all States.

(3) MINIMUM ALLOCATION.—Notwithstanding paragraph (2), each State shall receive not less than 0.5 percent of the grant funds made available under this subsection.

(d) EXTENSION OF EFFECTIVE DATE.—The Secretary of Transportation may extend the date specified under subsection (b)(1)(A) for up to 2 years for driver's licenses issued by a State if the Secretary determines that the State made reasonable efforts to comply with the date under such subsection but was unable to do so.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out this section.

SEC. ___08. SOCIAL SECURITY CARDS.

(a) SECURITY ENHANCEMENTS.—The Commissioner of Social Security shall—

(1) not later than 180 days after the date of enactment of this section, issue regulations to restrict the issuance of multiple replacement social security cards to any individual to minimize fraud;

(2) within 1 year after the date of enactment of this section, require independent verification of all records provided by an applicant for an original social security card, other than for purposes of enumeration at birth; and

(3) within 18 months after the date of enactment of this section, add death, fraud, and work authorization indicators to the social security number verification system.

(b) INTERAGENCY SECURITY TASK FORCE.—The Commissioner of Social Security, in consultation with the Secretary of Homeland Security, shall form an interagency task force for the purpose of further improving the security of social security cards and numbers. Not later than 1 year after the date of enactment of this section, the task force shall establish security requirements, including—

(1) standards for safeguarding social security cards from counterfeiting, tampering, alteration, and theft;

(2) requirements for verifying documents submitted for the issuance of replacement cards; and

(3) actions to increase enforcement against the fraudulent use or issuance of social security numbers and cards.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commissioner of Social Security for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out this section.

SEC. ___9. EFFECTIVE DATE.

Notwithstanding any other provision of this Act, this title shall take effect on the date of enactment of this Act.

SA 3808. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 14, line 2, strike ''community,'' and insert ''community following receipt of intelligence needs and requirements from the consumers of national intelligence,''.

On page 14, line 8, insert before the semicolon the following: '', while ensuring that the elements of the intelligence community are able to conduct independent analyses so as to achieve, to the maximum extent practicable, competitive analyses''.

SA 3809. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, line 17, strike ''or'' at the end.

On page 28, line 19, strike the period and insert ''; and''.

On page 28, between lines 19 and 20, insert the following:

(D) the personnel involved are not military personnel and the funds were not appropriated to military personnel appropriations, except that the Director may make a transfer of such personnel or funds if the Secretary of Defense does not object to such transfer.

On page 91, between lines 12 and 13, insert the following:

(C) Nothing in this subsection shall be construed to authorize the National Intelligence Director to specify, or require the head of a department, agency, or element of the United States Government to approve a request for, the transfer, assignment, or detail of military personnel, except that the Director may take such action with regard to military personnel if the Secretary of Defense does not object to such action.

On page 98, between lines 21 and 22, insert the following:

(C) Nothing in this subsection shall be construed to authorize the National Intelligence Director to specify, or require the head of a department, agency, or element of the United States Government to approve a request for, the transfer, assignment, or detail of military personnel, except that the Director may take such action with regard to military personnel if the Secretary of Defense does not object to such action.

On page 98, between lines 21 and 22, insert the following:

(C) Nothing in this subsection shall be construed to authorize the National Intelligence Director to specify, or require the head of a department, agency, or element of the United States Government to approve a request for, the transfer, assignment, or detail of military personnel, except that the Director may take such action with regard to military personnel if the Secretary of Defense does not object to such action.

On page 7, beginning on line 20, strike ''that is not part of the National Foreign Intelligence Program as of the date of the enactment of this Act''.

SA 3811. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE ON IMPORTANCE OF ATTENDANCE OF SELECT COMMITTEE ON INTELLIGENCE MEETINGS.

(a) FINDINGS.—It is the sense of the Senate that—

(1) the 9/11 Commission concluded that informed and knowledgeable congressional oversight of the intelligence community is crucial to ensure the effective functioning of the Nation's intelligence services;

(2) to ensure that Representatives and Senators who serve on a congressional Committee on Intelligence develop relevant expertise about the functioning of the intelligence community, the 9/11 Commission recommended, for example, that Congress abolish term limits for Members who serve on these committees;

(3) it is difficult for Senators who serve on the Select Committee on Intelligence to become informed and knowledgeable about the intelligence field, and thereby develop the requisite expertise in that area, if they do not regularly attend hearings held by the Select Committee on Intelligence; and

(4) because Senators who are Members of the Select Committee on Intelligence yet do not regularly attend hearings held by the Select Committee on Intelligence are not informed and knowledgeable about the intelligence field, and do not develop the requisite expertise in that area, those Senators fail to discharge their responsibility to oversee the intelligence community.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that those Senators who serve on the Select Committee on Intelligence and who, for a given Congress, miss more than 75 percent of the hearings held by the Select Committee on Intelligence, should be ineligible to continue to serve on that committee.

SA 3812. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE THAT THE UNITED STATES IS SAFER.

(a) FINDINGS.—It is the sense of the Senate that—

(1) as recognized by the 9/11 Commission in its report, since September 11th, 2001, the United States of America and its allies have killed or captured a majority of al Qaeda's leadership; toppled the Taliban, which gave al Qaeda sanctuary in Afghanistan; and severely damaged the organization; and

(2) since September 11, 2001 Congress has—

(A) passed, and the President has signed into law, the PATRIOT Act;

(B) created the Department of Homeland security;

(C) created the Terrorist Threat Integration Center;

(D) created the Transportation Safety Administration;

(E) reorganized the Federal Bureau of Investigation; and

(F) signed the Smart Border Declaration,

just to name 6 offensive measures, all with the goal of making America safer and protecting our citizens in this global war on terrorism.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the 9/11 Commission Report was correct in its assessment that the United States of America is safer today than it was before the terrorist attacks of September 11, 2001.

SA 3813. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LIQUEFIED NATURAL GAS MARINE TERMINALS.

Congress finds that plans developed by the Department of Homeland Security to protect critical energy infrastructure should include risk assessments and protective measures for existing and proposed liquefied natural gas marine terminals.

SA 3814. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page ____, between lines ____ and ____, insert the following:

(2) regions of specific concern where United States foreign assistance should be targeted to assist governments in efforts to prevent the use of such regions as terrorist sanctuaries are South Asia, Southeast Asia, West Africa, the Horn of Africa, North and North Central Africa, the Arabian peninsula, Central and Eastern Europe, and South America;

SA 3815. Mr. ROCKEFELLER (for himself, Mrs. HUTCHISON, Mr. ROBERTS, and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 17, between lines 19 and 20, insert the following:

(11) direct an element or elements of the intelligence community to conduct competitive analysis of analytic products, particularly products having national importance;

(12) implement policies and procedures to encourage sound analytic methods and tradecraft throughout the elements of the intelligence community and to ensure that the elements of the intelligence community regularly conduct competitive analysis of analytic products, whether such products are produced by or disseminated to such elements;

On page 17, line 20, strike ''(11)'' and insert ''(13)''.

On page 17, line 22, strike ''(12)'' and insert ''(14)''.

On page 18, line 1, strike ''(13)'' and insert ''(15)''.

On page 18, line 4, strike ''(14)'' and insert ''(16)''.

On page 18, line 7, strike ''(15)'' and insert ''(17)''.

On page 18, line 14, strike ''(16)'' and insert ''(18)''.

On page 18, line 17, strike ''(17)'' and insert ''(19)''.

On page 18, line 20, strike ''(18)'' and insert ''(20)''.

On page 19, line 5, strike ''(19)'' and insert ''(21)''.

On page 19, line 7, strike ''(20)'' and insert ''(22)''.

On page 31, line 1, strike ''112(a)(16)'' and insert ''112(a)(18)''.

On page 49, line 13, insert '', and each other National Intelligence Council product'' after ''paragraph (1)''.

On page 49, line 15, insert ''or product'' after ''estimate''.

On page 49, line 17, insert ''or product'' after ''estimate''.

On page 49, line 19, insert ''or product'' after ''estimate''.

On page 49, line 22, strike ''such estimate and such estimate'' and insert ''such estimate or product and such estimate or product, as the case may be''.

On page 49, line 24, insert ''or product'' after ''estimate''.

On page 51, between lines 5 and 6, insert the following:

(i) NATIONAL INTELLIGENCE COUNCIL PRODUCT.—For purposes of this section, the term ''National Intelligence Council product'' includes a National Intelligence Estimate and any other intelligence community assessment that sets forth the judgment of the intelligence community as a whole on a matter covered by such product.

On page 56, line 20, strike ''(15) and (16)'' and insert ''(17) and (18)''.

On page 87, line 16, strike ''and'' at the end.

On page 87, between lines 16 and 17, insert the following:

(D) conduct, or recommend to the National Intelligence Director to direct an element or elements of the intelligence community to conduct, competitive analyses of intelligence products relating to suspected terrorists, their organizations, and their capabilities, plans, and intentions, particularly products having national importance;

(E) implement policies and procedures to encourage coordination by all elements of the intelligence community that conduct analysis of intelligence regarding terrorism of all Directorate products of national importance and, as appropriate, other products, before their final dissemination; and

On page 87, line 17, strike ''(D)'' and insert ''(F)''.

On page 96, line 16, strike ''foreign''.

On page 100, between lines 3 and 4, insert the following:

SEC. 145. OFFICE OF ALTERNATIVE ANALYSIS.

(a) OFFICE OF ALTERNATIVE ANALYSIS.—There is within the National Intelligence Authority an Office of Alternative Analysis.

(b) HEAD OF OFFICE.—The National Intelligence Director shall appoint the head of the Office of Alternative Analysis.

(c) INDEPENDENCE OF OFFICE.—The National Intelligence Director shall take appropriate actions to ensure the independence of the Office of Alternative Analysis in its activities under this section.

(d) FUNCTION OF OFFICE.—(1) The Office of Alternative Analysis shall subject each National Intelligence Estimate (NIE), before the completion of such estimate, to a thorough examination of all facts, assumptions, analytic methods, and judgments utilized in or underlying any analysis, estimation, plan, evaluation, or recommendation contained in such estimate.

(2)(A) The Office may also subject any other intelligence estimate, brief, survey, assessment, or report designated by the National Intelligence Director to a thorough examination as described in paragraph (1).

(B) Not later than 180 days after the date of the enactment of this Act, the Director shall submit to the congressional intelligence committees a report on the estimates, briefs, surveys, assessments or reports, if any, designated by the Director under subparagraph (A).

(3)(A) The purpose of an evaluation of an estimate or document under this subsection shall be to provide an independent analysis of any underlying facts, assumptions, and recommendations contained in such estimate or document and to present alternative conclusions, if any, arising from such facts or assumptions or with respect to such recommendations.

(B) In order to meet the purpose set forth in subparagraph (A), the Office shall, unless otherwise directed by the President, have access to all analytic products, field reports, and raw intelligence of any element of the intelligence community and such other reports and information as the Director considers appropriate.

(4) The evaluation of an estimate or document under this subsection shall be known as a ''OAA analysis'' of such estimate or document.

(5) Each estimate or document covered by an evaluation under this subsection shall include an appendix that contains the findings and conclusions of the Office with respect to the estimate or document, as the case may be, based upon the evaluation of the estimate or document, as the case may be, by the Office under this subsection.

(6) The results of each evaluation of an estimate or document under this subsection shall be submitted to the congressional intelligence committees.

On page 194, line 9, strike ''112(a)(11)'' and insert ''112(a)(14)''.

On page 195, line 16, strike ''112(a)(11)'' and insert ''112(a)(14)''.

On page 195, line 23, strike ''112(a)(11)'' and insert ''112(a)(14)''.

On page 196, line 7, strike ''112(a)(11)'' and insert ''112(a)(14)''.

SA 3816. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 155, on line 24, strike ''information'' and insert ''information use, collection, storage, disclosure, or''.

On page 158, between lines 9 and 10, insert the following:

(C) any legislation, regulation, or policy reviewed by the Board under subsection (d)(1) if—

(i) the Board advised against the implementation of such legislation, regulation, or policy; and

(ii) the legislation, regulation, or policy was implemented; and

(D) a description of—

(i) any instance in which the Board was unable to access information under the authority in subsection (g); and

(ii) the general level of cooperation between the Board and the heads of departments, agencies, or elements of the executive branch in carrying out such authority.

SA 3817. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1728, to amend the September 11th Victim Compensation Fund of 2001 (Public Law 107–42; 49 U.S.C. 40101 note) to provide compensation for the United States Citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. *Cole* on October 12, 2000, or the attack on the World Trade Center on February 26, 1993, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001; which was referred to the Committee on the Judiciary; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Terrorism Victim Compensation Equity Act''.

SEC. 2. REFERENCES.

Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered a reference to the September 11th Victim Compensation Fund of 2001 (Public Law 107–42; 49 U.S.C. 40101 note).

SEC. 3. COMPENSATION FOR VICTIMS OF TERRORIST ACTS.

(a) DEFINITIONS.—Section 402(4) is amended by inserting '' or related to the attack on

the U.S.S. Cole on October 12, 2000'' before the period.

(b) PURPOSE.—Section 403 is amended by inserting '' or killed as a result of the attack on the U.S.S. Cole on October 12, 2000'' before the period.

(c) DETERMINATION OF ELIGIBILITY FOR COMPENSATION.—

(1) CLAIM FORM CONTENTS.—Section 405(a)(2)(B) is amended—

(A) in clause (i), by inserting ''or the attack on the U.S.S. Cole on October 12, 2000'' before the semicolon;

(B) in clause (ii), by inserting ''or attack'' before the semicolon; and

(C) in clause (iii), by inserting ''or attack'' before the period.

(2) LIMITATION.—Section 405(a)(3) is amended by striking ''2 years'' and inserting ''4 years''.

(3) COLLATERAL COMPENSATION.—Section 405(b)(6) is amended by inserting ''or the attack on the U.S.S. Cole on October 12, 2000'' before the period.

(4) ELIGIBILITY.—

(A) INDIVIDUALS.—Section 405(c)(2)(A) is amended—

(i) in clause (i), by inserting ''or was on the U.S.S. Cole on October 12, 2000'' before the semicolon; and

(ii) by striking clause (ii) and inserting the following:

''(ii) suffered death as a result of such an air crash or suffered death as a result of such an attack;''.

(B) REQUIREMENTS.—Section 405(c)(3) is amended—

(i) in the heading for subparagraph (B) by inserting ''RELATING TO SEPTEMBER 11TH TERRORIST ACTS'' before the period; and

(ii) by adding at the end the following:

''(C) LIMITATION ON CIVIL ACTION RELATING TO OTHER TERRORIST ACTS.—

''(i) IN GENERAL.—Upon the submission of a claim under this title, the claimant involved waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained by the claimant as a result of the attack on the U.S.S. Cole on October 12, 2000. The preceding sentence does not apply to a civil action to recover any collateral source obligation based on contract, or to a civil action against any person who is a knowing participant in any conspiracy to commit any terrorist act.

''(ii) PENDING ACTIONS.—In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this title unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 4 of the Terrorism Victim Compensation Equity Act.

''(D) INDIVIDUALS WITH PRIOR COMPENSATION.—

''(i) IN GENERAL.—Subject to clause (ii), an individual is not an eligible individual for purposes of this subsection if the individual, or the estate of that individual, has received any compensation from a civil action or settlement based on tort related to the attack on the U.S.S. Cole on October 12, 2000.

''(ii) EXCEPTION.—Clause (i) shall not apply to compensation received from a civil action against any person who is a knowing participant in any conspiracy to commit any terrorist act.

''(E) VICTIMS OF ATTACK.—An individual who suffered death as a result of an attack described in subparagraph (C)(i) shall not be an eligible individual by reason of that attack, unless that individual is or was a United States citizen.''.

(C) INELIGIBILITY OF PARTICIPANTS AND CONSPIRATORS.—Section 405(c) is amended by adding at the end the following:

''(4) INELIGIBILITY OF PARTICIPANTS AND CONSPIRATORS.—An individual, or a representative of that individual, shall not be eligible to receive compensation under this title if that individual is identified by the Attorney General to have been a participant or conspirator in the attack on the U.S.S. Cole on October 12, 2000.''.

(D) ELIGIBILITY OF MEMBERS OF THE UNIFORMED SERVICES.—Section 405(c) (as amended by subparagraph (C)) is further amended by adding at the end the following:

''(5) ELIGIBILITY OF MEMBERS OF THE UNIFORMED SERVICES.—An individual who is a member of the uniformed services shall not be excluded from being an eligible individual by reason of being such a member.''.

SEC. 4. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Special Master, shall promulgate regulations to carry out the amendments made by this Act, including regulations with respect to—

(1) forms to be used in submitting claims under this Act;

(2) the information to be included in such forms;

(3) procedures for hearing and the presentation of evidence;

(4) procedures to assist an individual in filing and pursuing claims under this Act; and

(5) other matters determined appropriate by the Attorney General.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect as if enacted as part of the September 11th Victims Compensation Fund of 2001 (Public Law 107–42; 49 U.S.C. 40101 note).

SA 3818. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. NATIONWIDE INTEROPERABLE BROADBAND MOBILE COMMUNICATIONS NETWORK.

(a) IN GENERAL.—Not later than June 1, 2005, the Secretary of Homeland Security shall develop technical and operational specifications and protocols for a nationwide interoperable broadband mobile communications network (referred to in this section as the ''Network'') to be used by Federal, State, and local public safety and homeland security personnel.

(b) CONSULTATION AND USE OF EXISTING TECHNOLOGIES.—In developing the Network, the Secretary of Homeland Security shall—

(1) seek input from representatives of the user communities regarding the operation and administration of the Network; and

(2) make use of existing commercial wireless technologies to the greatest extent practicable.

(c) SPECTRUM ALLOCATION.—The Assistant Secretary for Communications and Information, acting as the Administrator of the National Telecommunications and Information Administration (referred to in this section as the ''Administrator''), in cooperation with the Federal Communications Commission, other Federal agencies with responsibility for managing radio frequency spectrum, and the Secretary of Homeland Security, shall develop, not later than June 1, 2005, a plan to dedicate sufficient radio frequency spectrum for the Network.

(d) REPORTING REQUIREMENT.—Not later than January 31, 2005, the Administrator, in consultation with the Secretary of Homeland Security, shall submit a report to Congress that—

(1) describes any statutory changes that are necessary to deploy the Network;

(2) identifies the required spectrum allocation for the Network; and

(3) describes the progress made in carrying out the provisions of this section.

SA 3819. Mr. ENSIGN (for himself, Mr. KYL, Mr. CHAMBLISS, Mr. CORNYN, Mr. GRASSLEY, and Mr. SESSIONS) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the end, add the following:

TITLE IV—OTHER MATTERS

SEC. 401. RESPONSIBILITIES AND FUNCTIONS OF CONSULAR OFFICERS.

(a) INCREASED NUMBER OF CONSULAR OFFICERS.—The Secretary of State, in each of fiscal years 2006 through 2009, may increase by 150 the number of positions for consular officers above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) LIMITATION ON USE OF FOREIGN NATIONALS FOR VISA SCREENING.—

(1) IMMIGRANT VISAS.—Subsection (b) of section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following: ''All immigrant visa applications shall be reviewed and adjudicated by a consular officer.''.

(2) NONIMMIGRANT VISAS.—Subsection (d) of such section is amended by adding at the end the following: ''All nonimmigrant visa applications shall be reviewed and adjudicated by a consular officer.''.

(c) TRAINING FOR CONSULAR OFFICERS IN DETECTION OF FRAUDULENT DOCUMENTS.—Section 305(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1734(a)) is amended by adding at the end the following: ''As part of the consular training provided to such officers by the Secretary of State, such officers shall also receive training in detecting fraudulent documents and general document forensics and shall be required as part of such training to work with immigration officers conducting inspections of applicants for admission into the United States at ports of entry.''.

(d) ASSIGNMENT OF ANTI-FRAUD SPECIALISTS.—

(1) SURVEY REGARDING DOCUMENT FRAUD.—The Secretary of State, in coordination with the Secretary of Homeland Security, shall conduct a survey of each diplomatic and consular post at which visas are issued to assess the extent to which fraudulent documents are presented by visa applicants to consular officers at such posts.

(2) PLACEMENT OF SPECIALIST.—Not later than July 31, 2005, the Secretary of State shall, in coordination with the Secretary of Homeland Security, identify 100 of such posts that experience the greatest frequency of presentation of fraudulent documents by visa applicants. The Secretary of State shall place in each such post at least one full-time anti-fraud specialist employed by the Department of State to assist the consular officers at each such post in the detection of such fraud.

SEC. 402. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

The Secretary of Homeland Security, in each of fiscal years 2006 through 2010, shall increase by not less than 2,000 the number of

positions for full-time active duty border patrol agents within the Department of Homeland Security above the number of such positions for which funds were allotted for the preceding fiscal year.

SEC. 403. INCREASE IN FULL-TIME IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.

The Secretary of Homeland Security, in each of fiscal years 2006 through 2010, shall increase by not less than 800 the number of positions for full-time active duty investigators within the Department of Homeland Security investigating violations of immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) above the number of such positions for which funds were allotted for the preceding fiscal year. At least half of these additional investigators shall be designated to investigate potential violations of section 274A of the Immigration and Nationality Act (8 U.S.C 25 1324a). Each State shall be allotted at least 3 of these additional investigators.

SA 3820. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. DENIAL OF FEDERAL BENEFITS TO CONVICTED TERRORISTS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, as amended by this Act, is further amended by adding at the end the following:

"§ 2339E. Denial of Federal benefits to terrorists

''(a) IN GENERAL.—Any individual who is convicted of a Federal crime of terrorism (as defined in section 2332b(g)) shall, as provided by the court on motion of the Government, be ineligible for any or all Federal benefits for any term of years or for life.

''(b) FEDERAL BENEFIT DEFINED.—As used in this section, 'Federal benefit' has the meaning given that term in section 421(d) of the Controlled Substances Act (21 U.S.C. 862(d)).''.

(b) CHAPTER ANALYSIS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting at the end the following:

''2339E. Denial of Federal benefits to terrorists.''.

SEC. ___. PROVIDING MATERIAL SUPPORT TO TERRORISM.

(a) IN GENERAL.—Section 2339A(a) of title 18, United States Code, is amended—

(1) by striking ''Whoever'' and inserting the following:

''(1) IN GENERAL.—Any person who'';

(2) by striking ''A violation'' and inserting the following:

''(3) PROSECUTION.—A violation'';

(3) by inserting after paragraph (1) the following:

''(2) ADDITIONAL OFFENSE.—

''(A) IN GENERAL.—Any person who provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, an act of international or domestic terrorism, or in the preparation for, or in carrying out, the concealment or escape from the commission of any such act, or attempts or conspires to do so, shall be punished as provided under paragraph (1) for an offense under that paragraph.

''(B) JURISDICTION.—There is Federal jurisdiction over an offense under this paragraph if—

''(i) the offense occurs in or affects interstate or foreign commerce;

''(ii) the act of terrorism is an act of international or domestic terrorism that violates the criminal law of the United States;

''(iii) the act of terrorism is an act of domestic terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government;

''(iv) the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government, and an offender, acting within the United States or outside the territorial jurisdiction of the United States, is—

''(I) a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

''(II) an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act); or

''(III) a stateless person whose habitual residence is in the United States;

''(v) the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government, and an offender, acting within the United States, is an alien;

''(vi) the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States, and an offender, acting outside the territorial jurisdiction of the United States, is an alien; or

''(vii) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under this paragraph or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under this paragraph.''; and

(4) by inserting ''act or'' after ''underlying''.

(b) DEFINITIONS.—Section 2339A(b) of title 18, United States Code, is amended to read as follows—

''(b) DEFINITIONS.—As used in this section—

''(1) the term 'material support or resources' means any property (tangible or intangible) or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials;

''(2) the term 'training' means instruction or teaching designed to impart a specific skill, rather than general knowledge; and

''(3) the term 'expert advice or assistance' means advice or assistance derived from scientific, technical, or other specialized knowledge.''.

(c) MATERIAL SUPPORT TO FOREIGN TERRORIST ORGANIZATION.—Section 2339B(a)(1) of title 18, United States Code, is amended—

(1) by striking ''Whoever, within the United States or subject to the jurisdiction of the United States,'' and inserting the following:

''(A) IN GENERAL.—Any person who''; and

(2) by adding at the end the following:

''(B) KNOWLEDGE REQUIREMENT.—A person cannot violate this paragraph unless the person has knowledge that the organization referred to in subparagraph (A)—

''(i) is a terrorist organization;

''(ii) has engaged or engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)); or

''(iii) has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)(2)).''.

(d) JURISDICTION.—Section 2339B(d) of title 18, United States Code, is amended to read as follows:

''(d) JURISDICTION.—

''(1) IN GENERAL.—There is jurisdiction over an offense under subsection (a) if—

''(A) an offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act);

''(B) an offender is a stateless person whose habitual residence is in the United States;

''(C) an offender is brought in or found in the United States after the conduct required for the offense occurs, even if such conduct occurs outside the United States;

''(D) the offense occurs in whole or in part within the United States;

''(E) the offense occurs in or affects interstate or foreign commerce; or

''(F) an offender aids or abets any person, over whom jurisdiction exists under this paragraph, in committing an offense under subsection (a) or conspires with any person, over whom jurisdiction exists under this paragraph, to commit an offense under subsection (a).

''(2) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.''.

(e) PROVISION OF PERSONNEL.—Section 2339B of title 18, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by adding after subsection (f) the following:

''(g) PROVISION OF PERSONNEL.—No person may be prosecuted under this section in connection with the term 'personnel' unless that person has knowingly provided, attempted to provide, or conspired to provide a foreign terrorist organization with 1 or more individuals (who may be or include that person) to work under that terrorist organization's direction or control or to organize, manage, supervise, or otherwise direct the operation of that organization. Any person who acts entirely independently of the foreign terrorist organization to advance its goals or objectives shall not be considered to be working under the foreign terrorist organization's direction or control.''.

SEC. ___. RECEIVING MILITARY TYPE TRAINING FROM A FOREIGN TERRORIST ORGANIZATION.

(a) PROHIBITION AS TO CITIZENS AND RESIDENTS.—

(1) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding after section 2339E the following:

"§ 2339F. Receiving military-type training from a foreign terrorist organization

''(a) OFFENSE.—

''(1) IN GENERAL.—Whoever knowingly receives military-type training from or on behalf of any organization designated at the time of the training by the Secretary of State under section 219(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(1)) as a foreign terrorist organization, shall be fined under this title, imprisoned for ten years, or both.

''(2) KNOWLEDGE REQUIREMENT.—To violate paragraph (1), a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection

(c)(4)), that the organization has engaged or engages in terrorist activity (as defined in section 212 of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)), or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)(2)).

''(b) JURISDICTION.—

''(1) IN GENERAL.—There is jurisdiction over an offense under subsection (a) if—

''(A) an offender is a national of the United States (as defined in 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)), or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

''(B) an offender is a stateless person whose habitual residence is in the United States;

''(C) after the conduct required for the offense occurs an offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States;

''(D) the offense occurs in whole or in part within the United States;

''(E) the offense occurs in or affects interstate or foreign commerce; and

''(F) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (a), or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under subsection (a).

''(2) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

''(c) DEFINITIONS.—In this section:

''(1) MILITARY-TYPE TRAINING.—The term 'military-type training' means training in means or methods that can cause death or serious bodily injury, destroy or damage property, or disrupt services to critical infrastructure, or training on the use, storage, production, or assembly of any explosive, firearm or other weapon, including any weapon of mass destruction (as defined in section 2232a(c)(2)).

''(2) SERIOUS BODILY INJURY.—The term 'serious bodily injury' has the meaning given that term in section 1365(h)(3).

''(3) CRITICAL INFRASTRUCTURE.—The term 'critical infrastructure' means systems and assets vital to national defense, national security, economic security, public health, or safety, including both regional and national infrastructure. Critical infrastructure may be publicly or privately owned. Examples of critical infrastructure include gas and oil production, storage, or delivery systems, water supply systems, telecommunications networks, electrical power generation or delivery systems, financing and banking systems, emergency services (including medical, police, fire, and rescue services), and transportation systems and services (including highways, mass transit, airlines, and airports).

''(4) FOREIGN TERRORIST ORGANIZATION.—The term 'foreign terrorist organization' means an organization designated as a terrorist organization under section 219 (a)(1) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(1)).''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 113B of title 18, United States Code, is amended by adding at the end the following:

''2339F. Receiving military-type training from a foreign terrorist organization.''.

(b) INADMISSIBILITY OF ALIENS WHO HAVE RECEIVED MILITARY-TYPE TRAINING FROM TERRORIST ORGANIZATIONS.—Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

(1) by striking ''is inadmissable. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this chapter, to be engaged in a terrorist activity.''; and

(2) by inserting after subclause (VII) the following:

''(VIII) has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization under section 212(a)(3)(B)(vi),

is inadmissible. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this chapter, to be engaged in a terrorist activity.''.

(c) INADMISSIBILITY OF REPRESENTATIVES AND MEMBERS OF TERRORIST ORGANIZATIONS.—Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

(1) in subclause (IV), by striking item (aa) and inserting the following:

''(aa) a terrorist organization as defined under section 212(a)(3)(B)(vi), or''; and

(2) by striking subclause (V) and inserting the following:

''(V) is a member of—

''(aa) a terrorist organization as defined under section 212(a)(3)(B)(vi); or

''(bb) an organization which the alien knows or should have known is a terrorist organization,''.

(d) DEPORTATION OF ALIENS WHO HAVE RECEIVED MILITARY-TYPE TRAINING FROM TERRORIST ORGANIZATIONS.—Section 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)) is amended by adding at the end the following:

''(E) RECIPIENT OF MILITARY-TYPE TRAINING.—Any alien who has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization under section 212(a)(3)(B)(vi), is deportable.''.

(e) RETROACTIVE APPLICATION.—The amendments made by subsections (b), (c), and (d) shall apply to the receipt of military training occuring before, on, or after the date of enactment of this Act.

SA 3821. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 158, line 9, strike the period and insert '', including information regarding privacy and civil liberties violations, which are made by departments, agencies, or elements of the executive branch, of regulations, policies, or guidelines concerning information sharing and information collection; and''.

On page 158, between lines 9 and 10 insert the following:

(C) the minority views on any findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d).

On page 160, line 6, insert ''and the National Intelligence Director and committees of Congress described under subsection (e)(1)(B)(i)(I),'' after ''concerned''.

SA 3822. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 154, lines 12 and 13, strike '', regulations,'' and insert ''and approve regulations''.

On page 154, strike line 16 and insert ''and information collection guidelines under section 206;''.

On page 154, line 21, strike ''205(g)'' and insert ''206''.

On page 156, line 4, strike ''205(g)'' and insert ''206''.

On page 156, line 6, strike ''and'' after the semicolon.

On page 156, between lines 6 and 7, insert the following:

(C) the practices of the departments, agencies, and elements of the executive branch in acquiring access to the information stored and used by non-governmental entities; and

On page 156, line 7, strike ''(C)'' and insert ''(D)''.

SA 3823. Ms. COLLINS (for Mr. VOINOVICH) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place insert the following:

SEC. ____. FINANCIAL DISCLOSURE AND RECORDS.

(a) STUDY.—Not later than 180 days after the date of enactment of this Act, the Office of Government Ethics shall submit to Congress a report—

(1) evaluating the financial disclosure process for employees of the executive branch of Government; and

(2) making recommendations for improving that process.

(b) TRANSMITTAL OF RECORD RELATING TO PRESIDENTIALLY APPOINTED POSITIONS TO PRESIDENTIAL CANDIDATES.—

(1) DEFINITION.—In this section, the term ''major party'' has the meaning given that term under section 9002(6) of the Internal Revenue Code of 1986.

(2) TRANSMITTAL.—

(A) IN GENERAL.—Not later than 15 days after the date on which a major party nominates a candidate for President, the Office of Personnel Management shall transmit an electronic record to that candidate on Presidentially appointed positions.

(B) OTHER CANDIDATES.—After making transmittals under subparagraph (A), the Office of Personnel Management may transmit an electronic record on Presidentially appointed positions to any other candidate for President.

(3) CONTENT.—The record transmitted under this subsection shall provide—

(A) all positions which are appointed by the President, including the title and description of the duties of each position;

(B) the name of each person holding a position described under subparagraph (A);

(C) any vacancy in the positions described under subparagraph (A), and the period of time any such position has been vacant;

(D) the date on which an appointment made after the applicable Presidential election for any position described under subparagraph (A) is necessary to ensure effective operation of the Government; and

(E) any other information that the Office of Personnel Management determines is useful in making appointments.

(c) REDUCTION OF POSITIONS REQUIRING APPOINTMENT WITH SENATE CONFIRMATION.—

(1) DEFINITION.—In this subsection, the term ''agency'' means an Executive agency as defined under section 105 of title 5, United States Code.

(2) REDUCTION PLAN.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the head of each agency shall submit a Presidential appointment reduction plan to—

(i) the President;

(ii) the Committee on Governmental Affairs of the Senate; and

(iii) the Committee on Government Reform of the House of Representatives.

(B) CONTENT.—The plan under this paragraph shall provide for the reduction of—

(i) the number of positions within that agency that require an appointment by the President, by and with the advice and consent of the Senate; and

(ii) the number of levels of such positions within that agency.

(d) OFFICE OF GOVERNMENT ETHICS REVIEW OF CONFLICT OF INTEREST LAW.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Government Ethics, in consultation with the Attorney General of the United States, shall conduct a comprehensive review of conflict of interest laws relating to Federal employment and submit a report to—

(A) the President;

(B) the Committee on Governmental Affairs of the Senate;

(C) the Committee on the Judiciary of the Senate;

(D) the Committee on Government Reform of the House of Representatives; and

(E) the Committee on the Judiciary of the House of Representatives.

(2) CONTENT.—The report under this subsection shall—

(A) examine all Federal criminal conflict of interest laws relating to Federal employment, including the relevant provisions of chapter 11 of title 18, United States Code; and

(B) related civil conflict of interest laws, including regulations promulgated under section 402 of the Ethics in Government Act of 1978 (5 U.S.C. App.).

SA 3824. Mr. BIDEN (for himself and Mr. SPECTER, and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place, insert the following new title:

TITLE ____—REDUCING CRIME AND TERRORISM AT AMERICA'S SEAPORTS

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Reducing Crime and Terrorism at America's Seaports Act of 2004''.

SEC. ___02. ENTRY BY FALSE PRETENSES TO ANY SEAPORT.

(a) IN GENERAL.—Section 1036 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking ''or'' at the end;

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

''(3) any secure or restricted area (as that term is defined under section 2285(c)) of any seaport; or'';

(2) in subsection (b)(1), by striking ''5'' and inserting ''10'';

(3) in subsection (c)(1), by inserting '', captain of the seaport,'' after ''airport authority''; and

(4) in the section heading, by inserting ''**or seaport**'' after ''**airport**''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by striking the matter relating to section 1036 and inserting the following:

''1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport or seaport.''.

(c) DEFINITION OF SEAPORT.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

''§ 25. Definition of seaport

''As used in this title, the term 'seaport' means all piers, wharves, docks, and similar structures to which a vessel may be secured, areas of land, water, or land and water under and in immediate proximity to such structures, buildings on or contiguous to such structures, and the equipment and materials on such structures or in such buildings.''.

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 1 of title 18 is amended by inserting after the matter relating to section 24 the following:

''25. Definition of seaport.''.

SEC. ___03. CRIMINAL SANCTIONS FOR FAILURE TO HEAVE TO, OBSTRUCTION OF BOARDING, OR PROVIDING FALSE INFORMATION.

(a) OFFENSE.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following:

''§ 2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information

''(a)(1) It shall be unlawful for the master, operator, or person in charge of a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to knowingly fail to obey an order by an authorized Federal law enforcement officer to heave to that vessel.

''(2) It shall be unlawful for any person on board a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to—

''(A) forcibly resist, oppose, prevent, impede, intimidate, or interfere with a boarding or other law enforcement action authorized by any Federal law, or to resist a lawful arrest; or

''(B) provide information to a Federal law enforcement officer during a boarding of a vessel regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew, which that person knows is false.

''(b) This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581), or any other provision of law enforced or administered by the Secretary of the Treasury or the Undersecretary for Border and Transportation Security of the Department of Homeland Security, or the authority of any Federal law enforcement officer under any law of the United States, to order a vessel to stop or heave to.

''(c) A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the designee of the Secretary of State.

''(d) In this section—

''(1) the term 'Federal law enforcement officer' has the meaning given the term in section 115(c);

''(2) the term 'heave to' means to cause a vessel to slow, come to a stop, or adjust its course or speed to account for the weather conditions and sea state to facilitate a law enforcement boarding;

''(3) the term 'vessel subject to the jurisdiction of the United States' has the meaning given the term in section 2(c) of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903(b)); and

''(4) the term 'vessel of the United States' has the meaning given the term in section 2(c) of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903(b)).

''(e) Any person who intentionally violates the provisions of this section shall be fined under this title, imprisoned for not more than 5 years, or both.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 109, title 18, United States Code, is amended by inserting after the item for section 2236 the following:

''2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.''.

SEC. ___04. USE OF A DANGEROUS WEAPON OR EXPLOSIVE ON A PASSENGER VESSEL.

Section 1993 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting '', passenger vessel,'' after ''transportation vehicle'';

(B) in paragraphs (2)—

(i) by inserting '', passenger vessel,'' after ''transportation vehicle''; and

(ii) by inserting ''or owner of the passenger vessel'' after ''transportation provider'' each place that term appears;

(C) in paragraph (3)—

(i) by inserting '', passenger vessel,'' after ''transportation vehicle'' each place that term appears; and

(ii) by inserting ''or owner of the passenger vessel'' after ''transportation provider'' each place that term appears;

(D) in paragraph (5)—

(i) by inserting '', passenger vessel,'' after ''transportation vehicle''; and

(ii) by inserting ''or owner of the passenger vessel'' after ''transportation provider''; and

(E) in paragraph (6), by inserting ''or owner of a passenger vessel'' after ''transportation provider'' each place that term appears;

(2) in subsection (b)(1), by inserting '', passenger vessel,'' after ''transportation vehicle''; and

(3) in subsection (c)—

(A) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9) respectively; and

(B) by inserting after paragraph (5) the following:

''(6) the term 'passenger vessel' has the meaning given that term in section 2101(22) of title 46, United States Code, and includes a small passenger vessel, as that term is defined under section 2101(35) of that title.''.

SEC. ___05. CRIMINAL SANCTIONS FOR VIOLENCE AGAINST MARITIME NAVIGATION, PLACEMENT OF DESTRUCTIVE DEVICES, AND MALICIOUS DUMPING.

(a) VIOLENCE AGAINST MARITIME NAVIGATION.—Section 2280(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (H), by striking ''(G)'' and inserting ''(H)'';

(B) by redesignating subparagraphs (F), (G), and (H) as subparagraphs (G), (H), and (I), respectively; and

(C) by inserting after subparagraph (E) the following:

''(F) destroys, seriously damages, alters, moves, or tampers with any aid to maritime

navigation maintained by the Saint Lawrence Seaway Development Corporation under the authority of section 4 of the Act of May 13, 1954 (33 U.S.C. 984), by the Coast Guard pursuant to section 81 of title 14, United States Code, or lawfully maintained under authority granted by the Coast Guard pursuant to section 83 of title 14, United States Code, if such act endangers or is likely to endanger the safe navigation of a ship;''; and

(2) in paragraph (2) by striking ''(C) or (E)'' and inserting ''(C), (E), or (F)''.

(b) PLACEMENT OF DESTRUCTIVE DEVICES.—

(1) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by adding after section 2280 the following:

''§ 2280A. Devices or substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce

''(a) A person who knowingly places, or causes to be placed, in navigable waters of the United States, by any means, a device or substance which is likely to destroy or cause damage to a vessel or its cargo, or cause interference with the safe navigation of vessels, or interference with maritime commerce, such as by damaging or destroying marine terminals, facilities, and any other marine structure or entity used in maritime commerce, with the intent of causing such destruction or damage, or interference with the safe navigation of vessels or with maritime commerce, shall be fined under this title, imprisoned for any term of years or for life, or both; and if the death of any person results from conduct prohibited under this subsection, may be punished by death.

''(b) Nothing in this section shall be construed to apply to otherwise lawfully authorized and conducted activities of the United States Government.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, is amended by adding after the item related to section 2280 the following:

''2280A. Devices or substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce.''.

(c) MALICIOUS DUMPING.—

(1) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following:

''§ 2282. Knowing discharge or release

''(a) ENDANGERMENT OF HUMAN LIFE.—Any person who knowingly discharges or releases oil, a hazardous material, a noxious liquid substance, or any other dangerous substance into the navigable waters of the United States or the adjoining shoreline with the intent to endanger human life, health, or welfare shall be fined under this title and imprisoned for any term of years or for life.

''(b) ENDANGERMENT OF MARINE ENVIRONMENT.—Any person who knowingly discharges or releases oil, a hazardous material, a noxious liquid substance, or any other dangerous substance into the navigable waters of the United States or the adjacent shoreline with the intent to endanger the marine environment shall be fined under this title, imprisoned not more than 30 years, or both.

''(c) DEFINITIONS.—In this section:

''(1) DISCHARGE.—The term 'discharge' means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

''(2) HAZARDOUS MATERIAL.—The term 'hazardous material' has the meaning given the term in section 2101(14) of title 46, United States Code.

''(3) MARINE ENVIRONMENT.—The term 'marine environment' has the meaning given the term in section 2101(15) of title 46, United States Code.

''(4) NAVIGABLE WATERS.—The term 'navigable waters' has the meaning given the term in section 1362(7) of title 33, and also includes the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.

''(5) NOXIOUS LIQUID SUBSTANCE.—The term 'noxious liquid substance' has the meaning given the term in the MARPOL Protocol defined in section 2(1) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)(3)).''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, is amended by adding at the end the following:

''2282. Knowing discharge or release.''.

SEC. ____06. TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.

(a) TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.—Chapter 111 of title 18, as amended by this title, is amended by adding at the end the following:

''§ 2283. Transportation of explosive, biological, chemical, or radioactive or nuclear materials

''(a) IN GENERAL.—Any person who knowingly and willfully transports aboard any vessel within the United States, on the high seas, or having United States nationality, an explosive or incendiary device, biological agent, chemical weapon, or radioactive or nuclear material, knowing that any such item is intended to be used to commit an offense listed under section 2332b(g)(5)(B), shall be fined under this title, imprisoned for any term of years or for life, or both; and if the death of any person results from conduct prohibited by this subsection, may be punished by death.

''(b) DEFINITIONS.—In this section:

''(1) BIOLOGICAL AGENT.—The term 'biological agent' means any biological agent, toxin, or vector (as those terms are defined in section 178).

''(2) BY-PRODUCT MATERIAL.—The term 'by-product material' has the meaning given that term in section 11(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)).

''(3) CHEMICAL WEAPON.—The term 'chemical weapon' has the meaning given that term in section 229F.

''(4) EXPLOSIVE OR INCENDIARY DEVICE.—The term 'explosive or incendiary device' has the meaning given the term in section 232(5).

''(5) NUCLEAR MATERIAL.—The term 'nuclear material' has the meaning given that term in section 831(f)(1).

''(6) RADIOACTIVE MATERIAL.—The term 'radioactive material' means—

''(A) source material and special nuclear material, but does not include natural or depleted uranium;

''(B) nuclear by-product material;

''(C) material made radioactive by bombardment in an accelerator; or

''(D) all refined isotopes of radium.

''(7) SOURCE MATERIAL.—The term 'source material' has the meaning given that term in section 11(z) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(z)).

''(8) SPECIAL NUCLEAR MATERIAL.—The term 'special nuclear material' has the meaning given that term in section 11(aa) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(aa)).

''§ 2284. Transportation of terrorists

''(a) IN GENERAL.—Any person who knowingly and willfully transports any terrorist aboard any vessel within the United States, on the high seas, or having United States nationality, knowing that the transported person is a terrorist, shall be fined under this title, imprisoned for any term of years or for life, or both.

''(b) DEFINED TERM.—In this section, the term 'terrorist' means any person who intends to commit, or is avoiding apprehension after having committed, an offense listed under section 2332b(g)(5)(B).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by this title, is amended by adding at the end the following:

''2283. Transportation of explosive, chemical, biological, or radioactive or nuclear materials.

''2284. Transportation of terrorists.''.

SEC. ____07. DESTRUCTION OR INTERFERENCE WITH VESSELS OR MARITIME FACILITIES.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 111 the following:

''CHAPTER 111A—DESTRUCTION OF, OR INTERFERENCE WITH, VESSELS OR MARITIME FACILITIES

''Sec.

''2290. Jurisdiction and scope.

''2291. Destruction of vessel or maritime facility.

''2292. Imparting or conveying false information.

''2293. Bar to prosecution.

''§2290. Jurisdiction and scope

''(a) JURISDICTION.—There is jurisdiction over an offense under this chapter if the prohibited activity takes place—

''(1) within the United States or within waters subject to the jurisdiction of the United States; or

''(2) outside United States and—

''(A) an offender or a victim is a national of the United States (as that term is defined under section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

''(B) the activity involves a vessel in which a national of the United States was on board; or

''(C) the activity involves a vessel of the United States (as that term is defined under section 2(c) of the Maritime Drug Law Enforcement Act (42 App. U.S.C. 1903(c)).

''(b) SCOPE.—Nothing in this chapter shall apply to otherwise lawful activities carried out by or at the direction of the United States Government.

''§ 2291. Destruction of vessel or maritime facility

''(a) OFFENSE.—Whoever willfully—

''(1) sets fire to, damages, destroys, disables, or wrecks any vessel;

''(2) places or causes to be placed a destructive device, as defined in section 921(a)(4), or destructive substance, as defined in section 13, in, upon, or in proximity to, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any vessel, or any part or other materials used or intended to be used in connection with the operation of a vessel;

''(3) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any maritime facility, including but not limited to, any aid to navigation, lock, canal, or vessel traffic service facility or equipment, or interferes by force or violence with the operation of such facility, if such action is likely to endanger the safety of any vessel in navigation;

''(4) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

''(5) performs an act of violence against or incapacitates any individual on any vessel, if such act of violence or incapacitation is likely to endanger the safety of the vessel or those on board;

''(6) performs an act of violence against a person that causes or is likely to cause serious bodily injury, as defined in section 1365, in, upon, or in proximity to, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

''(7) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any vessel in navigation; or

''(8) attempts or conspires to do anything prohibited under paragraphs (1) through (7):

shall be fined under this title or imprisoned not more than 20 years, or both.

''(b) LIMITATION.—Subsection (a) shall not apply to any person that is engaging in otherwise lawful activity, such as normal repair and salvage activities, and the lawful transportation of hazardous materials.

''(c) PENALTY.—Whoever is fined or imprisoned under subsection (a) as a result of an act involving a vessel that, at the time of the violation, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)) or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)), shall be fined under title 18, imprisoned for a term up to life, or both.

''(d) PENALTY WHEN DEATH RESULTS.—Whoever is convicted of any crime prohibited by subsection (a), which has resulted in the death of any person, shall be subject also to the death penalty or to imprisonment for life.

''(e) THREATS.—Whoever willfully imparts or conveys any threat to do an act which would violate this chapter, with an apparent determination and will to carry the threat into execution, shall be fined under this title, imprisoned not more than 5 years, or both, and is liable for all costs incurred as a result of such threat.

''§ 2292. Imparting or conveying false information

''(a) IN GENERAL.—Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this chapter or by chapter 111 of this title, shall be subject to a civil penalty of not more than $5,000, which shall be recoverable in a civil action brought in the name of the United States.

''(b) MALICIOUS CONDUCT.—Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt to do any act which would be a crime prohibited by this chapter or by chapter 111 of this title, shall be fined under this title, imprisoned not more than 5 years, or both.

''(c) JURISDICTION.—

''(1) IN GENERAL.—Except as provided under paragraph (2), section 2290(a) shall not apply to any offense under this section.

''(2) JURISDICTION.—Jurisdiction over an offense under this section shall be determined in accordance with the provisions applicable to the crime prohibited by this chapter, or by chapter 2, 97, or 111 of this title, to which the imparted or conveyed false information relates, as applicable.

''§ 2293. Bar to prosecution

''(a) IN GENERAL.—It is a bar to prosecution under this chapter if—

''(1) the conduct in question occurred within the United States in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed; or

''(2) such conduct is prohibited as a misdemeanor under the law of the State in which it was committed.

''(b) DEFINITIONS.—In this section:

''(1) LABOR DISPUTE.—The term ''labor dispute'' has the same meaning given that term in section 113(c) of the Norris-LaGuardia Act (29 U.S.C. 113(c)).

''(2) STATE.—The term ''State'' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters at the beginning of title 18, United States Code, is amended by inserting after the item for chapter 111 the following:

''111A. Destruction of, or interference with, vessels or maritime facilities ..... 2290''.

SEC. ___08. THEFT OF INTERSTATE OR FOREIGN SHIPMENTS OR VESSELS.

(a) THEFT OF INTERSTATE OR FOREIGN SHIPMENTS.—Section 659 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting ''trailer,'' after ''motortruck,'';

(B) by inserting ''air cargo container,'' after ''aircraft,''; and

(C) by inserting '', or from any intermodal container, trailer, container freight station, warehouse, or freight consolidation facility,'' after ''air navigation facility'';

(2) in the fifth undesignated paragraph, by striking ''one year'' and inserting ''3 years''; and

(3) by inserting after the first sentence in the eighth undesignated paragraph the following: ''For purposes of this section, goods and chattel shall be construed to be moving as an interstate or foreign shipment at all points between the point of origin and the final destination (as evidenced by the waybill or other shipping document of the shipment), regardless of any temporary stop while awaiting transshipment or otherwise.''.

(b) STOLEN VESSELS.—

(1) IN GENERAL.—Section 2311 of title 18, United States Code, is amended by adding at the end the following:

'' 'Vessel' means any watercraft or other contrivance used or designed for transportation or navigation on, under, or immediately above, water.''.

(2) TRANSPORTATION AND SALE OF STOLEN VESSELS.—Sections 2312 and 2313 of title 18, United States Code, are each amended by striking ''motor vehicle or aircraft'' each place that term appears and inserting ''motor vehicle, vessel, or aircraft''.

(c) REVIEW OF SENTENCING GUIDELINES.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall review the Federal Sentencing Guidelines to determine whether sentencing enhancement is appropriate for any offense under section 659 or 2311 of title 18, United States Code, as amended by this title.

(d) ANNUAL REPORT OF LAW ENFORCEMENT ACTIVITIES.—The Attorney General shall annually submit to Congress a report, which shall include an evaluation of law enforcement activities relating to the investigation and prosecution of offenses under section 659 of title 18, United States Code, as amended by this title.

(e) REPORTING OF CARGO THEFT.—The Attorney General shall take the steps necessary to ensure that reports of cargo theft collected by Federal, State, and local officials are reflected as a separate category in the Uniform Crime Reporting System, or any successor system, by not later than December 31, 2005.

SEC. ___09. INCREASED PENALTIES FOR NONCOMPLIANCE WITH MANIFEST REQUIREMENTS.

(a) REPORTING, ENTRY, CLEARANCE REQUIREMENTS.—Section 436(b) of the Tariff Act of 1930 (19 U.S.C. 1436(b)) is amended by—

(1) striking ''or aircraft pilot'' and inserting '', aircraft pilot, operator, owner of such vessel, vehicle or aircraft or any other responsible party (including non-vessel operating common carriers)'';

(2) striking ''$5,000'' and inserting ''$10,000''; and

(3) striking ''$10,000'' and inserting ''$25,000''.

(b) CRIMINAL PENALTY.—Section 436(c) of the Tariff Act of 1930 (19 U.S.C. 1436(c)) is amended by striking ''$2,000'' and inserting ''$10,000''.

(c) FALSITY OR LACK OF MANIFEST.—Section 584(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1584(a)(1)) is amended by striking ''$1,000'' in each place it occurs and inserting ''$10,000''.

SEC. ___10. STOWAWAYS ON VESSELS OR AIRCRAFT.

Section 2199 of title 18, United States Code, is amended by striking ''Shall be fined under this title or imprisoned not more than one year, or both.'' and inserting the following:

''(1) shall be fined under this title, imprisoned not more than 5 years, or both;

''(2) if the person commits an act proscribed by this section, with the intent to commit serious bodily injury, and serious bodily injury occurs (as defined under section 1365, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242) to any person other than a participant as a result of a violation of this section, shall be fined under this title, imprisoned not more than 20 years, or both; and

''(3) if an individual commits an act proscribed by this section, with the intent to cause death, and if the death of any person other than a participant occurs as a result of a violation of this section, shall be fined under this title, imprisoned for any number of years or for life, or both.''.

SEC. ___11. BRIBERY AFFECTING PORT SECURITY.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

''§ 226. Bribery affecting port security

''(a) IN GENERAL.—Whoever knowingly—

''(1) directly or indirectly, corruptly gives, offers, or promises anything of value to any public or private person, with intent—

''(A) to commit international or domestic terrorism (as that term is defined under section 2331);

''(B) to influence any action or any person to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud affecting any secure or restricted area or seaport; or

''(C) to induce any official or person to do or omit to do any act in violation of the fiduciary duty of such official or person which affects any secure or restricted area or seaport; or

''(2) directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to

receive or accept anything of value personally or for any other person or entity in return for—

''(A) being influenced in the performance of any official act affecting any secure or restricted area or seaport; and

''(B) knowing that such influence will be used to commit, or plan to commit, international or domestic terrorism

''shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) DEFINITION.—In this section, the term 'secure or restricted area' has the meaning given that term in section 2285(c).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end the following:

''226. Bribery affecting port security.''.

SA 3825. Mr. LEVIN (for himself and Mr. ALEXANDER) submitted an amendment intended to be propsed by him to the bill S. 2845, to reform the intelligence community and the intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PRIVATE SECURITY OFFICER EMPLOYMENT AUTHORIZATION ACT OF 2004.

(a) SHORT TITLE.—This section may be cited as the ''Private Security Officer Employment Authorization Act of 2004''.

(b) FINDINGS.—Congress finds that—

(1) employment of private security officers in the United States is growing rapidly;

(2) private security officers function as an adjunct to, but not a replacement for, public law enforcement by, among other things, helping to protect critical infrastructure, including hospitals, manufacturing facilities, defense and aerospace contractors, nuclear power plants, chemical companies, oil and gas refineries, airports, communication facilities and operations, and others;

(3) the 9-11 Commission Report says that ''Private sector preparedness is not a luxury; it is a cost of doing business in the post-9/11 world. It is ignored at a tremendous potential cost in lives, money, and national security'' and endorsed adoption of the American National Standards Institute's standard for private preparedness;

(4) part of improving private sector preparedness is mitigating the risks of terrorist attack on critical infrastructure by ensuring that private security officers who protect those facilities are properly screened to determine their suitability;

(5) the American public deserves the employment of qualified, well-trained private security personnel as an adjunct to sworn law enforcement officers; and

(6) private security officers and applicants for private security officer positions should be thoroughly screened and trained.

(c) DEFINITIONS.—In this section:

(1) EMPLOYEE.—The term ''employee'' includes both a current employee and an applicant for employment as a private security officer.

(2) AUTHORIZED EMPLOYER.—The term ''authorized employer'' means any person that—

(A) employs private security officers; and

(B) is authorized by regulations promulgated by the Attorney General to request a criminal history record information search of an employee through a State identification bureau pursuant to this section.

(3) PRIVATE SECURITY OFFICER.— The term ''private security officer''—

(A) means an individual other than an employee of a Federal, State, or local government, whose primary duty is to perform security services, full- or part-time, for consideration, whether armed or unarmed and in uniform or plain clothes (except for services excluded from coverage under this section if the Attorney General determines by regulation that such exclusion would serve the public interest); but

(B) does not include—

(i) employees whose duties are primarily internal audit or credit functions;

(ii) employees of electronic security system companies acting as technicians or monitors; or

(iii) employees whose duties primarily involve the secure movement of prisoners.

(4) SECURITY SERVICES.—The term ''security services'' means acts to protect people or property as defined by regulations promulgated by the Attorney General.

(5) STATE IDENTIFICATION BUREAU.—The term ''State identification bureau'' means the State entity designated by the Attorney General for the submission and receipt of criminal history record information.

(d) CRIMINAL HISTORY RECORD INFORMATION SEARCH.—

(1) IN GENERAL.—

(A) SUBMISSION OF FINGERPRINTS.—An authorized employer may submit to the State identification bureau of a participating State, fingerprints or other means of positive identification, as determined by the Attorney General, of an employee of such employer for purposes of a criminal history record information search pursuant to this section.

(B) EMPLOYEE RIGHTS.—

(i) PERMISSION.—An authorized employer shall obtain written consent from an employee to submit to the State identification bureau of a participating State the request to search the criminal history record information of the employee under this section.

(ii) ACCESS.—An authorized employer shall provide to the employee confidential access to any information relating to the employee received by the authorized employer pursuant to this section.

(C) PROVIDING INFORMATION TO THE STATE IDENTIFICATION BUREAU.—Upon receipt of a request for a criminal history record information search from an authorized employer pursuant to this section, submitted through the State identification bureau of a participating State, the Attorney General shall—

(i) search the appropriate records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

(ii) promptly provide any resulting identification and criminal history record information to the submitting State identification bureau requesting the information.

(D) USE OF INFORMATION.—

(i) IN GENERAL.—Upon receipt of the criminal history record information from the Attorney General by the State identification bureau, the information shall be used only as provided in clause (ii).

(ii) TERMS.—In the case of—

(I) a participating State that has no State standards for qualification to be a private security officer, the State shall notify an authorized employer as to the fact of whether an employee has been—

(aa) convicted of a felony, an offense involving dishonesty or a false statement if the conviction occurred during the previous 10 years, or an offense involving the use or attempted use of physical force against the person of another if the conviction occurred during the previous 10 years; or

(bb) charged with a criminal felony for which there has been no resolution during the preceding 365 days; or

(II) a participating State that has State standards for qualification to be a private security officer, the State shall use the information received pursuant to this section in applying the State standards and shall only notify the employer of the results of the application of the State standards.

(E) FREQUENCY OF REQUESTS.—An authorized employer may request a criminal history record information search for an employee only once every 12 months of continuous employment by that employee unless the authorized employer has good cause to submit additional requests.

(2) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall issue such final or interim final regulations as may be necessary to carry out this section, including—

(A) measures relating to the security, confidentiality, accuracy, use, submission, dissemination, destruction of information and audits, and recordkeeping;

(B) standards for qualification as an authorized employer; and

(C) the imposition of reasonable fees necessary for conducting the background checks.

(3) CRIMINAL PENALTIES FOR USE OF INFORMATION.—Whoever knowingly and intentionally uses any information obtained pursuant to this section other than for the purpose of determining the suitability of an individual for employment as a private security officer shall be fined under title 18, United States Code, or imprisoned for not more than 2 years, or both.

(4) USER FEES.—

(A) IN GENERAL.—The Director of the Federal Bureau of Investigation may—

(i) collect fees to process background checks provided for by this section; and

(ii) establish such fees at a level to include an additional amount to defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs.

(B) LIMITATIONS.—Any fee collected under this subsection—

(i) shall, consistent with Public Law 101–515 and Public Law 104–99, be credited to the appropriation to be used for salaries and other expenses incurred through providing the services described in such Public Laws and in subparagraph (A);

(ii) shall be available for expenditure only to pay the costs of such activities and services; and

(iii) shall remain available until expended.

(C) STATE COSTS.—Nothing in this section shall be construed as restricting the right of a State to assess a reasonable fee on an authorized employer for the costs to the State of administering this section.

(5) STATE OPT OUT.—A State may decline to participate in the background check system authorized by this section by enacting a law or issuing an order by the Governor (if consistent with State law) providing that the State is declining to participate pursuant to this paragraph.

SA 3826. Mr. STEVENS (for himself, Mr. WARNER, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 84, beginning on line 8, strike ''joint operations'' and insert ''strategic planning''.

SA 3827. Mr. STEVENS submitted an amendment intended to be proposed by

him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, strike line 20 and all that follows through page 153, line 2.

SA 3828. Mr. STEVENS (for himself, Mr. INOUYE, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 12, strike ''unless'' and all that follows through line 15 and insert ''which the National Intelligence Director and the head of the department, agency, and element concerned agree to; but''.

On page 12, line 22, strike ''consultation'' and insert ''coordination''.

On page 13, line 6, insert before the semicolon the following: ''as agreed to in accordance with section 2(6)(A)(iii)''.

On page 13, beginning on line 9, strike ''the military intelligence'' and all that follows through line 11 and insert ''the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities programs;''.

On page 21, beginning on line 20, strike ''military intelligence'' and all that follows through line 22 and insert ''the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities programs;''.

On page 22, strike lines 1 and 2 and insert the following:
heads of departments that contain elements of the intelligence community; and

On page 22, line 3, insert '', in coordination with the heads of the departments concerned,'' after ''overseeing''.

On page 23, line 13, insert before the period the following: ''as agreed to in accordance with section 2(6)(A)(iii)''.

SA 3829. Mr. STEVENS (for himself, Mr. WARNER, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 212, strike lines 3 through 6, and insert the following:

(a) IN GENERAL.—This Act and the amendments made by this Act shall take effect one year after the date of the enactment of this Act, except that—

(1) subsections (a) and (b) of section 102 (relating to the establishment of the position of National Intelligence Director) shall take effect 90 days after the date of the enactment of this Act, and the President shall prescribe the duties of the position of National Intelligence Director that are to apply before subsections (d) and (e) of such section take effect;

(2) section 143 (relating to the establishment and operation of the National Counterterrorism Center) shall take effect 90 days after the date of the enactment of this Act, and the National Counterterrorism Center shall be operated without reference to its status under section 143(a) as an entity within the National Intelligence Authority until the National Intelligence Authority is established when section 101 takes effect;

(3) section 331 and the amendments made by such section shall take effect 90 days after the date of the enactment of this Act; and

(4) a provision of this Act shall take effect on any earlier date that the President specifies for such provision in an exercise of the authority provided in subsection (b).

SA 3830. Mr. STEVENS (for himself, Mr. WARNER, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, beginning on line 16, strike ''of the National Intelligence Director''.

On page 43, beginning on line 1, strike ''**OF THE NATIONAL INTELLIGENCE DIRECTOR**''.

On page 43, beginning on line 5, strike ''of the National Intelligence Director'' and insert ''for the National Intelligence Director and the Director of the Central Intelligence Agency''.

On page 43, beginning on line 17, strike ''of the National Intelligence Director''.

On page 141, between lines 16 and 17, insert the following:

(H) the Director of the Central Intelligence Agency or his designee;

On page 141, line 16, strike ''(H)'' and insert ''(I)''.

On page 141, line 18, strike ''(I)'' and insert ''(J)''.

On page 141, line 21, strike ''(J)'' and insert ''(K)''.

On page 179, beginning on line 21, strike ''and coordination of'' and all that follows through ''elements of'' beginning on line 23 and insert '', and coordinate outside the United States, the collection of national intelligence through human sources by agencies and organizations within''.

On page 194, beginning on line 23, strike ''of the National Intelligence Director''.

SA 3831. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 59, line 14, strike ''shall'' and insert ''may''.

SA 3832. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. COMMUNICATIONS INTEROPERABILITY.

(a) DEFINITION.—As used in this section, the term ''interoperability'' means the ability of public safety service and support providers to talk with each other via voice and data on demand, in real time, when needed, and when authorized.

(b) NATIONAL INTEROPERABILITY STANDARDS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with appropriate representatives of Federal, State, and local government and first responders, shall adopt, by regulation, national interoperability goals and standards that—

(1) set short-term, mid-term, and long-term means and minimum performance standards for Federal agencies, States, and local governments;

(2) recognize—

(A) the value, life cycle, and technical capabilities of existing communications infrastructure;

(B) the need for cross-border interoperability between States and nations;

(C) the unique needs of small, rural communities; and

(D) the interoperability needs for daily operations and catastrophic events.

(c) NATIONAL INTEROPERABILITY IMPLEMENTATION PLAN.—

(1) DEVELOPMENT.—Not later 180 days of the completion of the development of goals and standards under subsection (b), the Secretary of Homeland Security shall develop an implementation plan that—

(A) outlines the responsibilities of the Department of Homeland Security; and

(B) focuses on providing technical and financial assistance to States and local governments for interoperability planning and implementation.

(2) EXECUTION.—The Secretary shall execute the plan developed under this subsection as soon as practicable.

(3) REPORTS.—

(A) INITIAL REPORT.—Upon the completion of the plan under subsection (c), the Secretary shall submit a report that describes such plan to—

(i) the Committee on Governmental Affairs of the Senate;

(ii) the Committee on Environment and Public Works of the Senate; and

(iii) the Select Committee on Homeland Security of the House of Representatives.

(B) ANNUAL REPORT.—Not later than 1 year after the submission of the report under subparagraph (A), and annually thereafter, the Secretary shall submit a report to the committees referred to in subparagraph (A) that describes the progress made in implementing the plan developed under this subsection.

(d) INTERNATIONAL INTEROPERABILITY.—Not later than 1 year after the date of enactment of this Act, the President shall establish a mechanism for coordinating cross-border interoperability issues between—

(1) the United States and Canada; and

(2) the United States and Mexico.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 2005 through 2009—

(1) such sums as may be necessary to carry out subsection (b);

(2) such sums as may be necessary to carry out subsection (c); and

(3) such sums as may be necessary to carry out subsection (d).

SA 3833. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill insert the following:

SEC. .

Reported by the Secretary of Defense on Implementation of Recommendations by the

Defense Science Board on Preventing and Defending Against Clandestine Nuclear Attack.

(A) FINDINGS.—A report of the Defense Science Board Task Force on Preventing and Defending Against Clandestine Nuclear Attack of June 2004—

(1) found that ''little has actually been done against the threat of clandestine nuclear attack'';

(2) found that nuclear weapons ''are spreading to places and regions where the prospects for effective control to prevent their loss and stem their continued spread are highly uncertain''; and

(3) called for the Department of Defense to lead an interagency task force to ''develop a multi-element, layered, global, civil/military system of systems and capabilities that would greatly reduce the likelihood of a successful clandestine nuclear attack.''

(B) REPORT.—No later than 3 months following the date of enactment of this act, the Secretary of Defense shall submit a report to the Congress describing the steps it has taken to address the recommendations of the Defense Science Board Task force on Preventing and Defending Against Clandestine Nuclear Attack.

SA 3834. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. MANDATORY IMPRISONMENT FOR FRAUD IN CONNECTION WITH INTERNATIONAL TERRORISM.

Section 1028(b)(4) of title 18, United States Code, is amended by striking ''or imprisonment for not more than 25 years, or both,'' and inserting ''and imprisonment for not more than 25 years''.

SA 3835. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for othr purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COMMUNICATION SYSTEM GRANTS.

(a) IN GENERAL.—The Secretary of Homeland Security may award grants, on a competitive basis, to States, local governments, local law enforcement agencies, and local fire departments to—

(1) improve communication systems to allow for real time, interoperable communication between State and local first responders; or

(2) purchase communication systems that allow for real time, interoperable communication between State and local first responders.

(b) APPLICATION.—Any State, local government, local law enforcement agency, or local fire department desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $300,000,000 for each of the fiscal years 2005 through 2009 to carry out the provisions of this section.

SA 3836. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COMMUNICATION SYSTEM GRANTS.

(a) IN GENERAL.—The Secretary of Homeland Security may award grants, on a competitive basis, to States, local governments, local law enforcement agencies, and local fire departments to—

(1) improve communication systems to allow for real time, interoperable communication between State and local first responders; or

(2) purchase communication systems that allow for real time, interoperable communication between State and local first responders.

(b) APPLICATION.—Any State, local government, local law enforcement agency, or local fire department desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary for each of the fiscal years 2005 through 2009 to carry out the provisions of this section.

SA 3837. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE IV—ADVANCED TECHNOLOGY NORTHERN BORDER SECURITY PILOT PROGRAM

SEC. 401. ESTABLISHMENT.

The Secretary of Homeland Security shall carry out a pilot program to test various advanced technologies that will improve border security between ports of entry along the northern border of the United States.

SEC. 402. PROGRAM REQUIREMENTS.

(a) REQUIRED FEATURES.—The Secretary of Homeland Security shall design the pilot program under this title to have the following features:

(1) Use of advanced technological systems, including sensors, video, and unmanned aerial vehicles, for border surveillance.

(2) Use of advanced computing and decision integration software for—

(A) evaluation of data indicating border incursions;

(B) assessment of threat potential; and

(C) rapid real-time communication, monitoring, intelligence gathering, deployment, and response.

(3) Testing of advanced technology systems and software to determine best and most cost-effective uses of advanced technology to improve border security.

(4) Operation of the program in remote stretches of border lands with long distances between 24-hour ports of entry where the terrain is varied, the climatological and other environmental conditions vary over wide ranges between severe extremes, and the usual number of United States Border Patrol officers on regular patrol (as measured on the basis of average number per mile) is low.

(5) Capability to expand the program upon a determination by the Secretary that expansion would be an appropriate and cost-effective means of improving border security.

(b) COORDINATION WITH OTHER AGENCIES.—The Secretary of Homeland Security shall ensure that the operation of the pilot program under this title—

(1) is coordinated among United States, State and local, and Canadian law enforcement and border security agencies; and

(2) includes ongoing communication among such agencies.

SEC. 403. ADMINISTRATIVE PROVISIONS.

(a) PROCUREMENT OF ADVANCED TECHNOLOGY.—The Secretary of Homeland Security may enter into contracts for the procurement or use of such advanced technologies as the Secretary determines appropriate for the pilot program under this title.

(b) PROGRAM PARTNERSHIPS.—In carrying out the pilot program, the Secretary of Homeland Security may provide for the establishment of cooperative arrangements for participation in the pilot program by such participants as the Armed Forces, law enforcement and border security agencies referred to in section 402(b), institutions of higher education, and private sector entities.

SEC. 404. REPORT.

(a) REQUIREMENT FOR REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on the pilot program under this title.

(b) CONTENT.—The report under subsection (a) shall include the following matters:

(1) A discussion of the implementation of the pilot program, including the experience under the pilot program.

(2) A recommendation regarding expansion of the pilot program along the entire northern border of the United States and a timeline for the implementation of the expansion.

SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the pilot program under this title.

SA 3838. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NATIONAL EMERGENCY TELEMEDICAL COMMUNICATIONS.

(a) TELEHEALTH TASK FORCE.—

(1) ESTABLISHMENT.—The Secretary of Commerce, in consultation with the Secretary of Homeland Security and the Secretary of Health and Human Services, shall establish a task force to be known as the ''National Emergency Telehealth Network Task Force'' (referred to in this subsection as the ''Task Force'') to advise the Secretary of Commerce on the use of telehealth technologies to prepare for, monitor, respond to, and manage the events of a biological, chemical, or nuclear terrorist attack or other public health emergencies.

(2) FUNCTIONS.—The Task Force shall—

(A) conduct an inventory of existing telehealth initiatives, including—

(i) the specific location of network components;

(ii) the medical, technological, and communications capabilities of such components; and

(iii) the functionality of such components;

(B) make recommendations for use by the Secretary of Commerce in establishing

standards for regional interoperating and overlapping information and operational capability response grids in order to achieve coordinated capabilities based on responses among Federal, State, and local responders;

(C) recommend any changes necessary to integrate technology and clinical practices;

(D) recommend to the Secretary of Commerce acceptable standard clinical information that could be uniformly applied and available throughout a national telemedical network and tested in the regional networks;

(E) research, develop, test, and evaluate administrative, physical, and technical guidelines for protecting the confidentiality, integrity, and availability of regional networks and all associated information and advise the Secretary of Commerce on issues of patient data security, and compliance with all applicable regulations;

(F) in consultation and coordination with the regional telehealth networks established under subsection (b), test such networks for their ability to provide support for the existing and planned efforts of State and local law enforcement, fire departments, health care facilities, and Federal and State public health agencies to prepare for, monitor, respond rapidly to, or manage the events of a biological, chemical, or nuclear terrorist attack or other public health emergencies with respect to each of the functions listed in subparagraphs (A) through (H) of subsection (b)(3); and

(G) facilitate the development of training programs for responders and a mechanism for training via enhanced advanced distributive learning.

(3) MEMBERSHIP.—The Task Force shall include representation from—

(A) relevant Federal agencies;

(B) relevant State and local government agencies including public health officials;

(C) professional associations specializing in health care; and

(D) other relevant private sector organizations, including public health and national telehealth organizations and representatives of academic and corporate information management and information technology organizations.

(4) MEETINGS AND REPORTS.—

(A) MEETINGS.—The Task Force shall meet as the Secretary of Commerce may direct.

(B) REPORT.—

(i) IN GENERAL.—Not later than 3 years after the date of enactment of this Act the Task Force shall prepare and submit a report to Congress regarding the activities of the Task Force.

(ii) CONTENTS.—The report described in clause (i) shall recommend, based on the information obtained from the regional telehealth networks established under subsection (b), whether and how to build on existing telehealth networks to develop a National Emergency Telehealth Network.

(5) IMPLEMENTATION.—The Task Force may carry out activities under this subsection in cooperation with other entities, including national telehealth organizations.

(6) TERMINATION.—The Task Force shall terminate upon submission of the final report required under paragraph (4)(B).

(b) ESTABLISHMENT OF STATE AND REGIONAL TELEHEALTH NETWORKS.—

(1) PROGRAM AUTHORIZED.—

(A) IN GENERAL.—The Secretary of Commerce, in consultation with the Secretary of Homeland Security and the Secretary of Health and Human Services, is authorized to award grants to 3 regional consortia of States to carry out pilot programs for the development of statewide and regional telehealth network testbeds that build on, enhance, and securely link existing State and local telehealth programs.

(B) DURATION.—The Secretary of Commerce shall award grants under this subsection for a period not to exceed 3 years. Such grants may be renewed.

(C) STATE CONSORTIUM PLANS.—Each regional consortium of States desiring to receive a grant under subparagraph (A) shall submit to the Secretary of Commerce a plan that describes how such consortium shall—

(i) interconnect existing telehealth systems in a functional and seamless fashion to enhance the ability of the States in the region to prepare for, monitor, respond to, and manage the events of a biological, chemical, or nuclear terrorist attack or other public health emergencies; and

(ii) link to other participating States in the region via a standard interoperable connection using standard information.

(D) PRIORITY.—In making grants under this subsection, the Secretary of Commerce shall give priority to regional consortia of States that demonstrate—

(i) the interest and participation of a broad cross section of relevant entities, including public health offices, emergency preparedness offices, and health care providers;

(ii) the ability to connect major population centers as well as isolated border, rural, and frontier communities within the region to provide medical, public health, and emergency services in response to a biological, chemical, or nuclear terrorist attack or other public health emergencies;

(iii) an existing telehealth and telecommunications infrastructure that connects relevant State agencies, health care providers, universities, and relevant Federal agencies; and

(iv) the ability to quickly complete development of a region-wide interoperable emergency telemedical network to expand communications and service capabilities and facilitate coordination among multiple medical, public health, and emergency response agencies, and the ability to test recommendations of the task force established under subsection (a) within 3 years.

(2) REGIONAL NETWORKS.—A consortium of States awarded a grant under paragraph (1) shall develop a regional telehealth network to support emergency response activities and provide medical services by linking established telehealth initiatives within the region to and with the following:

(A) First responders, such as police, firefighters, and emergency medical service providers.

(B) Front line health care providers, including hospitals, emergency medical centers, medical centers of the Department of Defense and the Department of Veterans Affairs, and public, private, community, rural, and Indian Health Service clinics.

(C) State and local public health departments, offices of rural health, and relevant Federal agencies.

(D) Experts on public health, bioterrorism, nuclear safety, chemical weapons and other relevant disciplines.

(E) Other relevant entities as determined appropriate by such consortium.

(3) FUNCTIONS OF THE NETWORKS.—Once established, a regional telehealth network under this subsection shall test the feasibility of recommendations (including recommendations relating to standard clinical information, operational capability, and associated technology and information standards) described in subparagraphs (B) through (E) of subsection (a)(2), and provide reports to the task force established under subsection (a), on such network's ability, in preparation of and in response to a biological, chemical, or nuclear terrorist attack or other public health emergencies, to support each of the following functions:

(A) Rapid emergency response and coordination.

(B) Real-time data collection for information dissemination.

(C) Environmental monitoring.

(D) Early identification and monitoring of biological, chemical, or nuclear exposures.

(E) Situationally relevant expert consultative services for patient care and front-line responders.

(F) Training of responders.

(G) Development of an advanced distributive learning network.

(H) Distance learning for the purposes of medical and clinical education, and simulation scenarios for ongoing training.

(4) REQUIREMENTS.—In awarding a grant under paragraph (1), the Secretary of Commerce shall—

(A) require that each regional network adopt common administrative, physical, and technical approaches for seamless interoperability and to protect the network's confidentiality, integrity, and availability, taking into consideration guidelines developed by the task force established under subsection (a); and

(B) require that each regional network inventory and report to the task force established under subsection (a), the technology and technical infrastructure available to such network.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $150,000,000 for fiscal years 2005, 2006, and 2007. Amounts made available under this paragraph shall remain available until expended.

(2) LIMIT ON ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amount made available for each fiscal year under paragraph (1) shall be used for Task Force administrative costs.

SA 3839. Mr. STEVENS (for himself, Mr. WARNER, and Mr. INOUYE) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 115, strike line 13 and all that follows through page 116, line 23.

SA 3840. Mr. STEVENS (for himself, Mr. WARNER, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 109, strike line 4 and all that follows through page 113, line 3.

On page 113, line 4, strike ''**163.**'' and insert ''**162.**''.

On page 114, line 1, strike ''**164.**'' and insert ''**163.**''.

SA 3841. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following new title:

TITLE IV—TRANSPORTATION SECURITY

SEC. 401. WATCHLISTS FOR PASSENGERS ABOARD VESSELS.

(a) IN GENERAL.—As soon as practicable but not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall—

(1) implement a procedure under which the Department of Homeland Security compares information about passengers who are to be carried aboard a cruise ship with a comprehensive, consolidated database containing information about known or suspected terrorists and their associates; and

(2) use the information obtained by comparing the passenger information with the information in the database to prevent known or suspected terrorists and their associates from boarding such vessels or to subject them to specific additional security scrutiny, through the use of ''no transport'' and ''automatic selectee'' lists or other means.

(b) COOPERATION FROM OPERATORS OF PASSENGER VESSELS.—The Secretary of Homeland Security shall by order require operators of cruise ships to provide the passenger information necessary to implement the procedure required by subsection (a).

(c) MAINTAINING THE ACCURACY AND INTEGRITY OF THE ''NO TRANSPORT'' AND ''AUTOMATIC SELECTEE'' LISTS.—

(1) WATCHLIST DATABASE.—The Secretary of Homeland Security, in consultation with the Director of the Federal Bureau of Investigations, shall design guidelines, policies, and operating procedures for the collection, removal, and updating of data maintained, or to be maintained, in the watchlist database described in subsection (a)(1) that are designed to ensure the accuracy and integrity of the databases.

(2) ACCURACY OF ENTRIES.—In developing the ''no transport'' and ''automatic selectee'' lists under subsection (a)(1), the Secretary of Homeland Security shall establish a simple and timely method for correcting erroneous entries, for clarifying information known to cause false hits or misidentification errors, and for updating relevant information that is dispositive in the passenger screening process. The Secretary shall also establish a process to provide an individual whose name is confused with, or similar to, a name in the watchlist database with a means of demonstrating that such individual is not the person named in the database.

(d) CRUISE SHIP DEFINED.—In this section, the term ''cruise ship''—

(1) means any vessel (except one described in paragraph (2)) that—

(A) weighs over 100 gross register tons;

(B) carries more than 200 passengers for hire;

(C) makes voyages lasting more than 24 hours, of which any part is on the high seas; and

(D) carries passengers who embark and disembark in the United States or its territories or possessions; and

(2) does not mean a ferry that—

(A) holds a Coast Guard Certificate of Inspection endorsed for ''Lakes, Bays, and Sounds''; and

(B) transits international waters for only short periods of time on frequent schedules.

SA 3842. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 69, line 12, insert ''In carrying out the duties and responsibilities specified in this Act, the Inspector General shall give particular regard to the activities of the internal audit, inspection, and investigative units of the Inspectors General of the elements of the intelligence community with a view toward avoiding duplication and ensuring effective coordination and cooperation.'' after the period.

SA 3843. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REFORM OF SENATE OVERSIGHT OF INTELLIGENCE AND HOMELAND SECURITY.

(a) ESTABLISHING A PERMANENT COMMITTEE ON INTELLIGENCE.—

(1) IN GENERAL.—There is established in the Senate a Committee on Intelligence (referred to in this subsection as the ''committee'') with majority party's representation on the committee never exceeding that of the minority party by more than one.

(2) MEMBERSHIP.—Four of the members of the committee shall be members of one of the following committees: Armed Services, Judiciary, Foreign Relations, and the Defense Appropriations Subcommittee on the Committee of Appropriations.

(3) TERM LIMITS.—Members shall serve on the committee without term limits.

(4) SUBPOENA AUTHORITY.—The committee shall have subpoena authority.

(5) STAFF AND SUBCOMMITTEE.—The committee shall have—

(A) subcommittees with at least a one subcommittee with operational oversight of the National Intelligence Program;

(B) responsibilities other than budget development; and

(C) staff appropriately sized to meet the mission of the committee.

(6) JURISDICTION.—The committee shall have sole jurisdiction over the authorization and appropriation for all programs in the National Intelligence Program.

(b) ESTABLISHING A SINGLE POINT OF JURISDICTION FOR THE DEPARTMENT OF HOMELAND SECURITY.—

(1) IN GENERAL.—There is established in the Senate a Committee on Homeland Security (referred to in this subsection as the ''committee'') with jurisdiction for the Department of Homeland Security and its duties.

(2) STAFF.—The committee shall be a permanent standing committee with a nonpartisan staff.

(3) OTHER COMMITTEES.—The jurisdiction of the committee shall supersede the jurisdiction of any other committee of the Senate.

(c) REPEAL.—S. Res. 400 (94th Congress) is repealed.

(d) EFFECTIVE DATE.—This section shall take effect on the convening of the 109th Congress.

SA 3844. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. GUARANTEED HOMELAND SECURITY GRANT FUNDING.

The Secretary of Homeland Security shall ensure that each State receives an amount of grant funding in fiscal year 2005, and each subsequent fiscal year, under the State Homeland Security Grant Program, the Urban Area Security Initiative, and the Law Enforcement Terrorism Prevention Program that is not less than the amount received by such State for such programs in fiscal year 2004.

SA 3845. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 10, between lines 16 and 17, insert the following:

(d) REMOVAL.—The National Intelligence Director may be removed from office by the President. The President shall communicate to each House of Congress the reasons for the removal of a National Intelligence Director from office.

On page 10, line 17, strike ''(d)'' and insert ''(e)''.

On page 11, line 3, strike ''(e)'' and insert ''(f)''.

On page 11, line 5, strike ''subsection (c)'' and insert ''subsection (e)''.

On page 22, line 11, strike ''(f) and (g)'' and insert ''(e), (f), and (g)''.

On page 24, beginning on line 1, strike '', pursuant to subsection (e),''.

On page 24, strike line 8 and all that follows through age 25, line 20.

On page 25, line 21, strike ''(f)'' and insert ''(e)''.

On page 27, strike line 1 and all that follows through page 30, line 22, and insert the following:

(f) ROLE OF NATIONAL INTELLIGENCE DIRECTOR IN REPROGRAMMING.—(1) No funds made available under the National Intelligence Program may be transferred or reprogrammed without the prior approval of the National Intelligence Director, except in accordance with procedures prescribed by the National Intelligence Director.

(2) The Secretary of Defense shall consult with the National Intelligence Director before transferring or reprogramming funds made available under the Joint Military Intelligence Program.

(g) TRANSFER OF FUNDS OR PERSONNEL WITHIN NATIONAL INTELLIGENCE PROGRAM.—(1) In addition to any other authorities available under law for such purposes, the National Intelligence Director, with the approval of the Director of the Office of Management and Budget—

(A) may transfer funds appropriated for a program within the National Intelligence Program to another such program; and

(B) in accordance with procedures to be developed by the National Intelligence Director, the heads of the departments and agencies concerned may transfer personnel authorized for an element of the intelligence community to another such element for periods up to one year.

(2) The amounts available for transfer in the National Intelligence Program in any given fiscal year, and the terms and conditions governing such transfers, are subject to the provisions of annual appropriations Acts and this subsection.

(3)(A) A transfer of funds or personnel may be made under this subsection only if—

(i) the funds or personnel are being transferred to an activity that is a higher priority intelligence activity;

(ii) the need for funds or personnel for such activity is based on unforeseen requirements;

(iii) the transfer does not involve a transfer of funds to the Reserve for Contingencies of the National Intelligence Director;

(iv) in the case of a transfer of funds, the transfer results in a cumulative transfer of funds out of any department, agency, or element, as appropriate, funded in the National Intelligence Program in a single fiscal year—

(I) that is less than $100,000,000; and

(II) that is less than 5 percent of amounts available to such department, agency, or element; and

(v) the transfer does not terminate a program.

(B) A transfer may be made without regard to a limitation set forth in clause (iv) or (v) of subparagraph (A) if the transfer has the concurrence of the head of the department, agency, or element concerned. The authority to provide such concurrence may only be delegated by the head of the department, agency, or element concerned to the deputy of such officer.

(4) Funds transferred under this subsection shall remain available for the same period as the appropriations account to which transferred.

(5) Any transfer of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer for which notice is given to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer and how it satisfies the requirements of this subsection. In addition, the congressional intelligence committees shall be promptly notified of any transfer of funds made pursuant to this subsection in any case in which the transfer would not have otherwise required reprogramming notification under procedures in effect as of the date of the enactment of this subsection.

(6)(A) The National Intelligence Director shall promptly submit a report on any transfer of personnel under this subsection to—

(i) the congressional intelligence committees;

(ii) the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives;

(iii) in the case of the transfer of personnel to or from the Department of Defense, the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives; and

(iv) in the case of the transfer of personnel to or from the Department of Justice, to the Committees on the Judiciary of the Senate and the House of Representatives.

(B) The Director shall include in any such report an explanation of the nature of the transfer and how it satisfies the requirements of this subsection.

On page 47, line 19, insert before the period the following ``, by and with the advice and consent of the Senate''.

On page 53, line 2, insert before the period the following ``, by and with the advice and consent of the Senate''.

On page 55, beginning on line 5, strike ``the National Intelligence Director'' and insert ``the President, by and with the advice and consent of the Senate''.

On page 60, beginning on line 14, strike ``appropriately''.

On page 61, line 11, insert ``and Congress'' after ``Director''.

On page 61, line 21, strike ``significant''.

On page 63, line 16, insert ``and the congressional intelligence committees'' after ``National Intelligence Director''.

On page 138, beginning on line 21, strike ``and to Congress'' and insert ``, to the Select Committee on Intelligence and the Committees on Appropriations and Governmental Affairs of the Senate, and to the Permanent Select Committee on Intelligence and the Committees on Appropriations and Government Reform of the House of Representatives''.

On page 140, strike lines 5 through 14 and insert the following:

(2) DEPUTY DIRECTOR OF MANAGEMENT AND BUDGET FOR INFORMATION SHARING.—There is within the Office of Management and Budget a Deputy Director of Management and Budget for Information Sharing who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall carry out the day-to-day duties of the Director specified in this section. The Deputy Director shall report directly to the Director of the Office of Management and Budget. The Deputy Director shall be paid at

On page 174, strike lines 14 through 22.

SA 3846. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 47, strike line 16 and all that follows through page 63, line 16, and insert the following:

(b) DEPUTY NATIONAL INTELLIGENCE DIRECTORS.—(1) There may be not more than four Deputy National Intelligence Directors who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) In the event of a vacancy in any position of Deputy National Intelligence Director established under this subsection, the National Intelligence Director shall recommend to the President an individual for appointment to such position.

(3) Each Deputy National Intelligence Director appointed under this subsection shall have such duties, responsibilities, and authorities as the National Intelligence Director may assign or are specified by law.

SEC. 123. NATIONAL INTELLIGENCE COUNCIL.

(a) NATIONAL INTELLIGENCE COUNCIL.—There is a National Intelligence Council.

(b) COMPOSITION.—(1) The National Intelligence Council shall be composed of senior analysts within the intelligence community and substantive experts from the public and private sector, who shall be appointed by, report to, and serve at the pleasure of, the National Intelligence Director.

(2) The Director shall prescribe appropriate security requirements for personnel appointed from the private sector as a condition of service on the Council, or as contractors of the Council or employees of such contractors, to ensure the protection of intelligence sources and methods while avoiding, wherever possible, unduly intrusive requirements which the Director considers to be unnecessary for this purpose.

(c) DUTIES AND RESPONSIBILITIES.—(1) The National Intelligence Council shall—

(A) produce national intelligence estimates for the United States Government, including alternative views held by elements of the intelligence community and other information as specified in paragraph (2);

(B) evaluate community-wide collection and production of intelligence by the intelligence community and the requirements and resources of such collection and production; and

(C) otherwise assist the National Intelligence Director in carrying out the responsibilities of the Director under section 111.

(2) The National Intelligence Director shall ensure that the Council satisfies the needs of policymakers and other consumers of intelligence by ensuring that each national intelligence estimate under paragraph (1)—

(A) states separately, and distinguishes between, the intelligence underlying such estimate and the assumptions and judgments of analysts with respect to such intelligence and such estimate;

(B) describes the quality and reliability of the intelligence underlying such estimate;

(C) presents and explains alternative conclusions, if any, with respect to the intelligence underlying such estimate and such estimate; and

(D) characterizes the uncertainties, if any, and confidence in such estimate.

(d) SERVICE AS SENIOR INTELLIGENCE ADVISERS.—Within their respective areas of expertise and under the direction of the National Intelligence Director, the members of the National Intelligence Council shall constitute the senior intelligence advisers of the intelligence community for purposes of representing the views of the intelligence community within the United States Government.

(e) AUTHORITY TO CONTRACT.—Subject to the direction and control of the National Intelligence Director, the National Intelligence Council may carry out its responsibilities under this section by contract, including contracts for substantive experts necessary to assist the Council with particular assessments under this section.

(f) STAFF.—The National Intelligence Director shall make available to the National Intelligence Council such staff as may be necessary to permit the Council to carry out its responsibilities under this section.

(g) AVAILABILITY OF COUNCIL AND STAFF.—(1) The National Intelligence Director shall take appropriate measures to ensure that the National Intelligence Council and its staff satisfy the needs of policymaking officials and other consumers of intelligence.

(2) The Council shall be readily accessible to policymaking officials and other appropriate individuals not otherwise associated with the intelligence community.

(h) SUPPORT.—The heads of the elements of the intelligence community shall, as appropriate, furnish such support to the National Intelligence Council, including the preparation of intelligence analyses, as may be required by the National Intelligence Director.

SEC. 124. GENERAL COUNSEL OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) GENERAL COUNSEL OF NATIONAL INTELLIGENCE AUTHORITY.—There is a General Counsel of the National Intelligence Authority who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) PROHIBITION ON DUAL SERVICE AS GENERAL COUNSEL OF ANOTHER AGENCY.—The individual serving in the position of General Counsel of the National Intelligence Authority may not, while so serving, also serve as the General Counsel of any other department, agency, or element of the United States Government.

(c) SCOPE OF POSITION.—The General Counsel of the National Intelligence Authority is the chief legal officer of the National Intelligence Authority.

(d) FUNCTIONS.—The General Counsel of the National Intelligence Authority shall perform such functions as the National Intelligence Director may prescribe.

SEC. 125. INTELLIGENCE COMPTROLLER.

(a) INTELLIGENCE COMPTROLLER.—There is an Intelligence Comptroller who shall be appointed from civilian life by the National Intelligence Director.

(b) SUPERVISION.—The Intelligence Comptroller shall report directly to the National Intelligence Director.

(c) DUTIES.—The Intelligence Comptroller shall—

(1) assist the National Intelligence Director in the preparation and execution of the budget of the elements of the intelligence

community within the National Intelligence Program;

(2) assist the Director in participating in the development by the Secretary of Defense of the annual budget for military intelligence programs and activities outside the National Intelligence Program;

(3) provide unfettered access to the Director to financial information under the National Intelligence Program;

(4) perform such other duties as may be prescribed by the Director or specified by law.

SEC. 126. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES OF NATIONAL INTELLIGENCE AUTHORITY.—There is an Officer for Civil Rights and Civil Liberties of the National Intelligence Authority who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) SUPERVISION.—The Officer for Civil Rights and Civil Liberties of the National Intelligence Authority shall report directly to the National Intelligence Director.

(c) DUTIES.—The Officer for Civil Rights and Civil Liberties of the National Intelligence Authority shall—

(1) assist the National Intelligence Director in ensuring that the protection of civil rights and civil liberties, as provided in the Constitution, laws, regulations, and Executive orders of the United States, is appropriately incorporated in—

(A) the policies and procedures developed for and implemented by the National Intelligence Authority;

(B) the policies and procedures regarding the relationships among the elements of the intelligence community within the National Intelligence Program; and

(C) the policies and procedures regarding the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community;

(2) oversee compliance by the Authority, and in the relationships described in paragraph (1), with requirements under the Constitution and all laws, regulations, Executive orders, and implementing guidelines relating to civil rights and civil liberties;

(3) review, investigate, and assess complaints and other information indicating possible abuses of civil rights or civil liberties, as provided in the Constitution, laws, regulations, and Executive orders of the United States, in the administration of the programs and operations of the Authority, and in the relationships described in paragraph (1), unless, in the determination of the Inspector General of the National Intelligence Authority, the review, investigation, or assessment of a particular complaint or information can better be conducted by the Inspector General;

(4) coordinate with the Privacy Officer of the National Intelligence Authority to ensure that programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and

(5) perform such other duties as may be prescribed by the Director or specified by law.

SEC. 127. PRIVACY OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) PRIVACY OFFICER OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Privacy Officer of the National Intelligence Authority who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) DUTIES.—(1) The Privacy Officer of the National Intelligence Authority shall have primary responsibility for the privacy policy of the National Intelligence Authority (including in the relationships among the elements of the intelligence community within the National Intelligence Program and the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community).

(2) In discharging the responsibility under paragraph (1), the Privacy Officer shall—

(A) assure that the use of technologies sustain, and do not erode, privacy protections relating to the use, collection, and disclosure of personal information;

(B) assure that personal information contained in Privacy Act systems of records is handled in full compliance with fair information practices as set out in the Privacy Act of 1974;

(C) conduct privacy impact assessments when appropriate or as required by law; and

(D) coordinate with the Officer for Civil Rights and Civil Liberties of the National Intelligence Authority to ensure that programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner.

SEC. 128. CHIEF INFORMATION OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) CHIEF INFORMATION OFFICER OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Chief Information Officer of the National Intelligence Authority who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Chief Information Officer of the National Intelligence Authority shall—

(1) assist the National Intelligence Director in implementing the responsibilities and executing the authorities related to information technology under paragraphs (15) and (16) of section 112(a) and section 113(h); and

(2) perform such other duties as may be prescribed by the Director or specified by law.

SEC. 129. CHIEF HUMAN CAPITAL OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) CHIEF HUMAN CAPITAL OFFICER OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Chief Human Capital Officer of the National Intelligence Authority who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Chief Human Capital Officer of the National Intelligence Authority shall—

(1) have the functions and authorities provided for Chief Human Capital Officers under sections 1401 and 1402 of title 5, United States Code, with respect to the National Intelligence Authority; and

(2) advise and assist the National Intelligence Director in exercising the authorities and responsibilities of the Director with respect to the workforce of the intelligence community as a whole.

SEC. 130. CHIEF FINANCIAL OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) CHIEF FINANCIAL OFFICER OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Chief Financial Officer of the National Intelligence Authority who shall be designated by the President, in consultation with the National Intelligence Director.

(b) DESIGNATION REQUIREMENTS.—The designation of an individual as Chief Financial Officer of the National Intelligence Authority shall be subject to applicable provisions of section 901(a) of title 31, United States Code.

(c) AUTHORITIES AND FUNCTIONS.—The Chief Financial Officer of the National Intelligence Authority shall have such authorities, and carry out such functions, with respect to the National Intelligence Authority as are provided for an agency Chief Financial Officer by section 902 of title 31, United States Code, and other applicable provisions of law.

(d) COORDINATION WITH NIA COMPTROLLER.—(1) The Chief Financial Officer of the National Intelligence Authority shall coordinate with the Comptroller of the National Intelligence Authority in exercising the authorities and performing the functions provided for the Chief Financial Officer under this section.

(2) The National Intelligence Director shall take such actions as are necessary to prevent duplication of effort by the Chief Financial Officer of the National Intelligence Authority and the Comptroller of the National Intelligence Authority.

(e) INTEGRATION OF FINANCIAL SYSTEMS.—Subject to the supervision, direction, and control of the National Intelligence Director, the Chief Financial Officer of the National Intelligence Authority shall take appropriate actions to ensure the timely and effective integration of the financial systems of the National Intelligence Authority (including any elements or components transferred to the Authority by this Act), and of the financial systems of the Authority with applicable portions of the financial systems of the other elements of the intelligence community, as soon as possible after the date of the enactment of this Act.

(f) PROTECTION OF ANNUAL FINANCIAL STATEMENT FROM DISCLOSURE.—The annual financial statement of the National Intelligence Authority required under section 3515 of title 31, United States Code—

(1) shall be submitted in classified form; and

(2) notwithstanding any other provision of law, shall be withheld from public disclosure.

SEC. 131. NATIONAL COUNTERINTELLIGENCE EXECUTIVE.

(a) NATIONAL COUNTERINTELLIGENCE EXECUTIVE.—The National Counterintelligence Executive under section 902 of the Counterintelligence Enhancement Act of 2002 (title IX of Public Law 107–306; 50 U.S.C. 402b et seq.), as amended by section 309 of this Act, is a component of the Office of the National Intelligence Director.

(b) DUTIES.—The National Counterintelligence Executive shall perform the duties provided in the Counterintelligence Enhancement Act of 2002, as so amended, and such other duties as may be prescribed by the National Intelligence Director or specified by law.

Subtitle D—Additional Elements of National Intelligence Authority

SEC. 141. INSPECTOR GENERAL OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) OFFICE OF INSPECTOR GENERAL OF NATIONAL INTELLIGENCE AUTHORITY.—There is within the National Intelligence Authority an Office of the Inspector General of the National Intelligence Authority.

(b) PURPOSE.—The purpose of the Office of the Inspector General of the National Intelligence Authority is to—

(1) create an objective and effective office, accountable to Congress, to initiate and conduct independently investigations, inspections, and audits relating to—

(A) the programs and operations of the National Intelligence Authority;

(B) the relationships among the elements of the intelligence community within the National Intelligence Program; and

(C) the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community;

(2) recommend policies designed—

(A) to promote economy, efficiency, and effectiveness in the administration of such

programs and operations, and in such relationships; and

(B) to prevent and detect fraud and abuse in such programs, operations, and relationships;

(3) provide a means for keeping the National Intelligence Director and Congress fully and currently informed about—

(A) problems and deficiencies relating to the administration of such programs and operations, and to such relationships; and

(B) the necessity for, and the progress of, corrective actions; and

(4) in the manner prescribed by this section, ensure that the congressional intelligence committees are kept similarly informed of—

(A) problems and deficiencies relating to the administration of such programs and operations, and to such relationships; and

(B) the necessity for, and the progress of, corrective actions.

(c) INSPECTOR GENERAL OF NATIONAL INTELLIGENCE AUTHORITY.—(1) There is an Inspector General of the National Intelligence Authority, who shall be the head of the Office of the Inspector General of the National Intelligence Authority, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The nomination of an individual for appointment as Inspector General shall be made—

(A) without regard to political affiliation;

(B) solely on the basis of integrity, compliance with the security standards of the National Intelligence Authority, and prior experience in the field of intelligence or national security; and

(C) on the basis of demonstrated ability in accounting, financial analysis, law, management analysis, public administration, or auditing.

(3) The Inspector General shall report directly to and be under the general supervision of the National Intelligence Director.

(4) The Inspector General may be removed from office only by the President. The President shall immediately communicate in writing to the congressional intelligence committees the reasons for the removal of any individual from the position of Inspector General.

(d) DUTIES AND RESPONSIBILITIES.—It shall be the duty and responsibility of the Inspector General of the National Intelligence Authority—

(1) to provide policy direction for, and to plan, conduct, supervise, and coordinate independently, the investigations, inspections, and audits relating to the programs and operations of the National Intelligence Authority, the relationships among the elements of the intelligence community within the National Intelligence Program, and the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community to ensure they are conducted efficiently and in accordance with applicable law and regulations;

(2) to keep the National Intelligence Director and the congressional intelligence committees

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SA 3847. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 24, strike line 1 and all that follows through page 30, line 22, and insert the following:

appropriated to the National Intelligence Authority and under the direct jurisdiction of the National Intelligence Director.

(2) The Director shall manage and oversee the execution by each element of the intelligence community of any amounts appropriated or otherwise made available to such element under the National Intelligence Program.

(e) ROLE IN REPROGRAMMING OR TRANSFER OF NIP FUNDS BY ELEMENTS OF INTELLIGENCE COMMUNITY.—(1) No funds made available under the National Intelligence Program may be reprogrammed or transferred by any agency or element of the intelligence community without the prior approval of the National Intelligence Director except in accordance with procedures issued by the Director.

(2) The head of the department concerned shall consult with the Director before reprogramming or transferring funds appropriated or otherwise made available to an agency or element of the intelligence community that does not have any program, project, or activity within the National Intelligence Program.

(3) The Director shall, before reprogramming funds appropriated or otherwise made available for an element of the intelligence community within the National Intelligence Program, consult with the head of the department or agency having jurisdiction over such element regarding such reprogramming.

(4)(A) The Director shall consult with the appropriate committees of Congress regarding modifications of existing procedures to expedite the reprogramming of funds within the National Intelligence Program.

(B) Any modification of procedures under subparagraph (A) shall include procedures for the notification of the appropriate committees of Congress of any objection raised by the head of a department or agency to a reprogramming proposed by the Director as a result of consultations under paragraph (3).

(f) ROLE OF NATIONAL INTELLIGENCE DIRECTOR IN REPROGRAMMING.—(1) No funds made available under the National Intelligence Program may be transferred or reprogrammed without the prior approval of the National Intelligence Director, except in accordance with procedures prescribed by the National Intelligence Director.

(2) The Secretary of Defense shall consult with the National Intelligence Director before transferring or reprogramming funds made available under the Joint Military Intelligence Program.

(g) TRANSFER OF FUNDS OR PERSONNEL WITHIN NATIONAL INTELLIGENCE PROGRAM.—(1) In addition to any other authorities available under law for such purposes, the National Intelligence Director, with the approval of the Director of the Office of Management and Budget—

(A) may transfer funds appropriated for a program within the National Intelligence Program to another such program; and

(B) in accordance with procedures to be developed by the National Intelligence Director, the heads of the departments and agencies concerned may transfer personnel authorized for an element of the intelligence community to another such element for periods up to one year.

(2) The amounts available for transfer in the National Intelligence Program in any given fiscal year, and the terms and conditions governing such transfers, are subject to the provisions of annual appropriations Acts and this subsection.

(3)(A) A transfer of funds or personnel may be made under this subsection only if—

(i) the funds or personnel are being transferred to an activity that is a higher priority intelligence activity;

(ii) the need for funds or personnel for such activity is based on unforeseen requirements;

(iii) the transfer does not involve a transfer of funds to the Reserve for Contingencies of the National Intelligence Director;

(iv) in the case of a transfer of funds, the transfer results in a cumulative transfer of funds out of any department, agency, or element, as appropriate, funded in the National Intelligence Program in a single fiscal year—

(I) that is less than $100,000,000; and

(II) that is less than 5 percent of amounts available to such department, agency, or element; and

(v) the transfer does not terminate a program.

(B) A transfer may be made without regard to a limitation set forth in clause (iv) or (v) of subparagraph (A) if the transfer has the concurrence of the head of the department, agency, or element concerned. The authority to provide such concurrence may only be delegated by the head of the department, agency, or element concerned to the deputy of such officer.

(4) Funds transferred under this subsection shall remain available for the same period as the appropriations account to which transferred.

(5) Any transfer of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer for which notice is given to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer and how it satisfies the requirements of this subsection. In addition, the congressional intelligence committees shall be promptly notified of any transfer of funds made pursuant to this subsection in any case in which the transfer would not have otherwise required reprogramming notification under procedures in effect as of the date of the enactment of this subsection.

(6)(A) The National Intelligence Director shall promptly submit a report on any transfer of personnel under this subsection to—

(i) the congressional intelligence committees;

(ii) the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives;

(iii) in the case of the transfer of personnel to or from the Department of Defense, the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives; and

(iv) in the case of the transfer of personnel to or from the Department of Justice, to the Committees on the Judiciary of the Senate and the House of Representatives.

(B) The Director shall include in any such report an explanation of the nature of the transfer and how it satisfies the requirements of this subsection.

SA 3848. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 153, strike line 5 and all that follows through page 164, line 15, and insert the following:

SEC. 211. PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

(a) IN GENERAL.—There is established as an independent establishment within the executive branch a Privacy and Civil Liberties Oversight Board (referred to in this subtitle as the ''Board'').

(b) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) In conducting the war on terrorism, the Government may need additional powers and may need to enhance the use of its existing powers.

(2) This shift of power and authority to the Government calls for an enhanced system of checks and balances to protect the precious liberties that are vital to our way of life and to ensure that the Government uses its powers for the purposes for which the powers were given.

(c) PURPOSE.—The Board shall—

(1) analyze and review actions the executive branch takes to protect the Nation from terrorism; and

(2) ensure that liberty concerns are appropriately considered in the development and implementation of laws, regulations, and policies related to efforts to protect the Nation against terrorism.

(d) FUNCTIONS.—

(1) ADVICE AND COUNSEL ON POLICY DEVELOPMENT AND IMPLEMENTATION.—The Board shall—

(A) review proposed legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the development and adoption of information sharing guidelines under section 205(g);

(B) review the implementation of new and existing legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the implementation of information sharing guidelines under section 205(g);

(C) advise the President, Congress, and the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are appropriately considered in the development and implementation of such legislation, regulations, policies, and guidelines; and

(D) in providing advice on proposals to retain or enhance a particular governmental power, consider whether the department, agency, or element of the executive branch has explained—

(i) that the power actually materially enhances security;

(ii) that there is adequate supervision of the use by the executive branch of the power to ensure protection of privacy and civil liberties; and

(iii) that there are adequate guidelines and oversight to properly confine its use.

(2) OVERSIGHT.—The Board shall continually review—

(A) the regulations, policies, and procedures, and the implementation of the regulations, policies, and procedures, of the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are protected;

(B) the information sharing practices of the departments, agencies, and elements of the executive branch to determine whether they appropriately protect privacy and civil liberties and adhere to the information sharing guidelines prescribed under section 205(g) and to other governing laws, regulations, and policies regarding privacy and civil liberties; and

(C) other actions by the executive branch related to efforts to protect the Nation from terrorism to determine whether such actions—

(i) appropriately protect privacy and civil liberties; and

(ii) are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.

(3) RELATIONSHIP WITH PRIVACY AND CIVIL LIBERTIES OFFICERS.—The Board shall—

(A) review and assess reports and other information from privacy officers and civil liberties officers described in section 212;

(B) when appropriate, make recommendations to such privacy officers and civil liberties officers regarding their activities; and

(C) when appropriate, coordinate the activities of such privacy officers and civil liberties officers on relevant interagency matters.

(4) TESTIMONY.—The Members of the Board shall appear and testify before Congress upon request.

(e) REPORTS.—

(1) IN GENERAL.—The Board shall—

(A) receive and review reports from privacy officers and civil liberties officers described in section 212; and

(B) periodically submit, not less than semiannually, reports—

(i)(I) to the appropriate committees of Congress, including the Committees on Appropriations of the Senate and the House of Representatives, the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(II) to the President; and

(ii) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

(2) CONTENTS.—Not less than 2 reports submitted each year under paragraph (1)(B) shall include—

(A) a description of the major activities of the Board during the preceding period; and

(B) information on the findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d).

(f) INFORMING THE PUBLIC.—The Board shall—

(1) make its reports, including its reports to Congress, available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

(2) hold public hearings and otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information and applicable law.

(g) ACCESS TO INFORMATION.—

(1) AUTHORIZATION.—If determined by the Board to be necessary to carry out its responsibilities under this section, the Board is authorized to—

(A) have access from any department, agency, or element of the executive branch, or any Federal officer or employee, to all relevant records, reports, audits, reviews, documents, papers, recommendations, or other relevant material, including classified information consistent with applicable law;

(B) interview, take statements from, or take public testimony from personnel of any department, agency, or element of the executive branch, or any Federal officer or employee;

(C) request information or assistance from any State, tribal, or local government; and

(D) require, by subpoena issued at the direction of a majority of the members of the Board, persons (other than departments, agencies, and elements of the executive branch, the legislative branch, and the judicial branch) to produce any relevant information, documents, reports, answers, records, accounts, papers, and other documentary or testimonial evidence.

(2) ENFORCEMENT OF SUBPOENA.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(D), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to produce the evidence required by such subpoena.

(3) AGENCY COOPERATION.—Whenever information or assistance requested under subparagraph (A) or (B) of paragraph (1) is, in the judgment of the Board, unreasonably refused or not provided, the Board shall report the circumstances to the head of the department, agency, or element concerned without delay. The head of the department, agency, or element concerned shall ensure that the Board is given access to the information, assistance, material, or personnel the Board determines to be necessary to carry out its functions.

(h) MEMBERSHIP.—

(1) MEMBERS.—The Board shall be composed of a chair, a vice chair, and five additional members, who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall designate the members of the Board who shall serve as the chair and vice chair of the Board. The vice chair of the Board shall serve as the chair of the Board in the absence of the chair of the Board.

(2) QUALIFICATIONS.—Members of the Board shall be selected solely on the basis of their professional qualifications, achievements, public stature, expertise in civil liberties and privacy, and relevant experience, and without regard to political affiliation, but in no event shall more than 3 members of the Board be members of the same political party.

(3) INCOMPATIBLE OFFICE.—An individual appointed to the Board may not, while serving on the Board, be an elected official, officer, or employee of the Federal Government, other than in the capacity as a member of the Board.

(4) TERM.—Each member of the Board shall serve a term of six years, except that—

(A) a member appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term;

(B) upon the expiration of the term of office of a member, the member shall continue to serve until the member's successor has been appointed and qualified, except that no member may serve under this subparagraph—

(i) for more than 60 days when Congress is in session unless a nomination to fill the vacancy shall have been submitted to the Senate; or

(ii) after the adjournment sine die of the session of the Senate in which such nomination is submitted; and

(C) of the members initially appointed under this subsection, two shall serve terms of two years, two shall serve terms of four years, and two shall serve terms of six years, with such terms to be allotted among such members by the President.

(5) QUORUM AND MEETINGS.—After its initial meeting, the Board shall meet upon the call of the chairman or a majority of its members. Three members of the Board shall constitute a quorum.

(6) REMOVAL.—The President may remove a member of the Board from service on the Board only for neglect of duty or malfeasance. The President shall immediately communicate to Congress notice of the removal of a member of the Board, together with a justification for the removal of the member.

(i) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION.—

(A) CHAIRMAN.—The chairman shall be compensated at the rate of pay payable for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code.

(B) MEMBERS.—Each member of the Board shall be compensated at a rate of pay payable for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Board.

(2) TRAVEL EXPENSES.—Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for persons employed intermittently by the Government under section 5703(b) of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

(j) STAFF.—

(1) APPOINTMENT AND COMPENSATION.—The Chairman, in accordance with rules agreed upon by the Board, shall appoint and fix the compensation of a full-time executive director and such other personnel as may be necessary to enable the Board to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) DETAILEES.—Any Federal employee may be detailed to the Board without reimbursement from the Board, and such detailee shall retain the rights, status, and privileges of the detailee's regular employment without interruption.

(3) CONSULTANT SERVICES.—The Board may procure the temporary or intermittent services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates that do not exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of such title.

(k) SECURITY CLEARANCES.—The appropriate departments, agencies, and elements of the executive branch shall cooperate with the Board to expeditiously provide the Board members and staff with appropriate security clearances to the extent possible under existing procedures and requirements.

(l) TRANSMITTAL OF CERTAIN MATTERS.—

(1) BUDGETS.—Whenever the Board submits to the Director of the Office of Management and Budget an estimate or request regarding the budget of the Board, the Board shall concurrently submit such estimate or request to Congress.

(2) PROPOSALS OR COMMENTS ON LEGISLATION.—

(B) PROHIBITION ON INTERFERENCE.—No officer of the executive branch may require the Board to submit a proposal for legislation, or recommendations, comments, or testimony on a proposal for legislation, to such officer for the comment, review, or approval of such officer before its submittal to Congress under subparagraph (A).

(m) TREATMENT AS AGENCY, NOT AS ADVISORY COMMITTEE.—The Board—

SA 3849. Mr. CORZINE (for himself and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—CHEMICAL FACILITIES SECURITY

SEC. ____01. SHORT TITLE.

This title may be cited as the ''Chemical Facilities Security Act of 2004''.

SEC. ____02. DEFINITIONS.

In this title:

(1) ALTERNATIVE APPROACHES.—The term ''alternative approaches'' means ways of reducing the threat of a terrorist release and the consequences of a terrorist release from a chemical source by such means as—

(A) the use of smaller quantities of substances of concern;

(B) replacement of a substance of concern with a less hazardous substance; or

(C) the use of less hazardous processes.

(2) CHEMICAL SOURCE.—

(A) IN GENERAL.—The term ''chemical source'' means a stationary source (as defined in section 112(r)(2) of the Clean Air Act (42 U.S.C. 7412(r)(2))) for which—

(i) the owner or operator is required to complete a risk management plan in accordance with section 112(r)(7)(B)(ii) of the Clean Air Act (42 U.S.C. 7412(r)(7)(B)(ii)); and

(ii) the Secretary is required to promulgate implementing regulations under section ____03(a) of this title.

(B) EXCLUSIONS.—The term ''chemical source'' does not include—

(i) any facility owned and operated by the Department of Defense or the Department of Energy; or

(ii) any facility that uses ammonia as fertilizer as an end user or holds ammonia for sale as a fertilizer at a retail facility, unless the Secretary determines that a terrorist release from the facility would pose potential harm to more than 10,000 people.

(3) CONSIDERATION OF ALTERNATIVE APPROACHES.—The term ''consideration of alternative approaches'' includes—

(A) an analysis of alternative approaches, including the benefits and risks of such approaches;

(B) the potential of the alternative approaches to prevent or reduce the threat or consequences of a terrorist release;

(C) the cost and technical feasibility of alternative approaches; and

(D) the effect of alternative approaches on product quality, product cost, and employee safety.

(4) DEPARTMENT.—The term ''Department'' means the Department of Homeland Security.

(5) ENVIRONMENT.—The term ''environment'' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(6) OWNER OR OPERATOR.—The term ''owner or operator'' has the meaning given the term in section 112(a) of the Clean Air Act (42 U.S.C. 7412(a)).

(7) PERSON.—The term ''person'' includes—

(A) the Federal Government; and

(B) a State or local government.

(8) RELEASE.—The term ''release'' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(10) SECURITY MEASURE.—

(A) IN GENERAL.—The term ''security measure'' means an action carried out to ensure or enhance the security of a chemical source.

(B) INCLUSIONS.—The term ''security measure'', with respect to a chemical source, includes measures such as—

(i) employee training and background and identification authentication checks;

(ii) the limitation and prevention of access to controls of the chemical source;

(iii) the protection of the perimeter of the chemical source;

(iv) the installation and operation of intrusion detection sensors;

(v) the implementation of measures to increase computer or computer network security;

(vi) the implementation of other security-related measures to protect against or reduce the threat of—

(I) a terrorist attack on the chemical source; or

(II) the theft of a substance of concern for offsite release in furtherance of an act of terrorism;

(vii) the installation of measures and controls to protect against or reduce the consequences of a terrorist attack; and

(viii) the conduct of any similar security-related activity, as determined by the Secretary.

(11) SUBSTANCE OF CONCERN.—The term ''substance of concern'' means—

(A) a chemical substance present at a chemical source in quantities equal to or exceeding the threshold quantities for the chemical substance, as defined in or established under paragraphs (3) and (5) of section 112(r) of the Clean Air Act (42 U.S.C. 7412(r)); and

(B) such other chemical substance as the Secretary may designate under section ____03(g).

(12) TERRORISM.—The term ''terrorism'' has the meaning given the term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(13) TERRORIST RELEASE.—The term ''terrorist release'' means—

(A) a release from a chemical source into the environment of a substance of concern that is caused by an act of terrorism; and

(B) the theft of a substance of concern by a person for off-site release in furtherance of an act of terrorism.

SEC. ____03. VULNERABILITY ASSESSMENTS AND SITE SECURITY PLANS.

(a) REQUIREMENT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations that require the owner or operator of each chemical source included on the list described in subsection (f)—

(A) to conduct an assessment of the vulnerability of the chemical source to a terrorist release, including identifying hazards that may result from a terrorist release; and

(B) to prepare and implement a site security plan that addresses the results of the vulnerability assessment.

(2) CONTENTS OF SITE SECURITY PLAN.—A site security plan required under the regulations promulgated under paragraph (1) or any other plan determined to be substantially equivalent by the Secretary under subsection (c)—

(A) shall include security measures to significantly reduce the vulnerability of the chemical source covered by the plan to a terrorist release;

(B) shall describe, at a minimum, particular equipment, plans, and procedures that could be implemented or used by or at the chemical source in the event of a terrorist release; and

(C) shall include consideration of alternative approaches and, where practicable in the judgment of the owner or operator of the chemical source, implementation of options to reduce the threat of a terrorist release through the use of alternative approaches.

(3) IMPLEMENTATION OF ALTERNATIVE APPROACHES AT HIGHEST RISK FACILITIES.—

(A) IN GENERAL.—A chemical source described in subparagraph (B) shall implement options to significantly reduce or eliminate

the threat or consequences of a terrorist release through the use of alternative approaches that would not create an equal or greater risk to human health or the environment.

(B) APPLICABILITY.—This subparagraph applies to a chemical source if the chemical source is 1 of the 123 facilities that the Secretary determines would pose a risk of harm to the greatest number of people in the event of a terrorist release, unless the owner or operator of the chemical source can demonstrate to the Secretary through an assessment of alternative approaches that available alternative approaches—

(i) would not significantly reduce the number of people at risk of death, injury, or serious adverse effects resulting from a terrorist release;

(ii) cannot practicably be incorporated into the operation of the chemical source; or

(iii) would significantly and demonstrably impair the ability of the owner or operator of the chemical source to continue its business.

(4) GUIDANCE TO CHEMICAL SOURCES.—Not later than 1 year after the date of enactment of this Act, the Secretary shall publish guidance to assist owners and operators of chemical sources in complying with this title, including advice on aspects of compliance with this title that may be unique to small businesses (including completion of analyses of alternative approaches).

(5) THREAT INFORMATION.—To the maximum extent practicable under applicable authority and in the interests of national security, the Secretary shall provide to an owner or operator of a chemical source required to prepare a vulnerability assessment and site security plan threat information that is relevant to the chemical source.

(6) COORDINATED ASSESSMENTS AND PLANS.—The regulations promulgated under paragraph (1) shall permit the development and implementation of coordinated vulnerability assessments and site security plans in any case in which more than 1 chemical source is operating at a single location or at contiguous locations, including cases in which a chemical source is under the control of more than 1 owner or operator.

(b) CERTIFICATION AND SUBMISSION.—

(1) IN GENERAL.—Each owner or operator of a chemical source shall certify in writing to the Secretary that the owner or operator has completed a vulnerability assessment and has developed and implemented or is implementing a site security plan in accordance with this title, including—

(A) regulations promulgated under subsection (a)(1); and

(B) any applicable procedures, protocols, or standards endorsed or recognized by the Secretary under subsection (c)(1).

(2) SUBMISSION.—Not later than 18 months after the date of promulgation of regulations under subsection (a)(1), an owner or operator of a chemical source shall provide to the Secretary copies of the vulnerability assessment and site security plan of the chemical source for review.

(3) REVIEW BY THE SECRETARY.—The Secretary shall review the assessments and plans submitted by the owner or operator of a chemical source under paragraph (2) to determine whether the chemical source is in compliance with—

(A) this title (including regulations promulgated under subsection (a)(1)); and

(B) other applicable procedures, protocols, or standards endorsed or recognized by the Secretary under subsection (c)(1).

(4) TIMELINE.—

(A) IN GENERAL.—The Secretary shall—

(i) conduct the review and determine compliance under this title for not fewer than 20 percent of the chemical sources required to submit assessments and response plans in each year following the submission deadline under paragraph (2); and

(ii) complete the review and determination of compliance with this title for all such facilities not later than 5 years after the deadline.

(B) SUBSEQUENT REVIEW.—After conducting reviews and determining compliance under this title for all chemical sources, the Secretary may subsequently conduct a review and determine compliance under this title for a chemical source.

(C) REVIEW OF ADDED CHEMICAL SOURCES AND UPDATED ASSESSMENTS AND PLANS.—The Secretary shall review and determine compliance under this title not later than 3 years after the date of submission of assessments and response plans for chemical sources that—

(i) update their vulnerability assessments or response plans under this paragraph or subsection (h); or

(ii) are added under subsection (f)(3).

(5) CERTIFICATE.—

(A) FACILITIES DETERMINED TO BE IN COMPLIANCE.—If the Secretary completes a review under paragraph (3) and determines that the vulnerability assessment and site security plan of a chemical source are in compliance with the requirements of this title, the Secretary shall provide to the chemical source and make available for public inspection a certificate of approval that contains the following statement (in which the first bracketed space shall contain the name of the chemical source and the second bracketed space shall contain the Public Law number assigned to this Act):

''The Secretary of Homeland Security certifies that the Department of Homeland Security has reviewed and approved the vulnerability assessment and site security plan submitted by [_____] under the Chemical Facilities Security Act of 2004 (Public Law [_____]).''.

(B) FACILITIES AWAITING REVIEW.—If a person requests a certificate of approval for a chemical source the vulnerability assessment and site security plan of which have not yet been reviewed for compliance with this title, the Secretary shall make available for public inspection a certificate that contains the following statement (in which the first bracketed space shall contain the name of the chemical source and the second bracketed space shall include the Public Law number assigned to this Act):

''The Secretary of Homeland Security's review of the vulnerability assessment and site security plan submitted by [_____] under the Chemical Facilities Security Act of 2004 (Public Law [_____]) is pending.''.

(6) DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines under paragraph (3) that a chemical source is not in compliance with the requirements of this title (including regulations promulgated under this title) the Secretary shall exercise the authority provided in section ____04.

(7) SUBMISSION OF CHANGES.—The owner or operator of a chemical source shall—

(A) not later than 90 days after the date on which any significant change is made to the vulnerability assessment or site security plan required for the chemical source under this section, provide to the Secretary a description of the change; and

(B) update the certification of the vulnerability assessment or site security plan.

(c) SPECIFIED STANDARDS.—

(1) EXISTING PROCEDURES, PROTOCOLS, AND STANDARDS.—On submission of a petition by any person to the Secretary, the Secretary may initiate a rulemaking to—

(A) endorse or recognize procedures, protocols, and standards—

(i) that are established by—

(I) industry;

(II) State or local authorities; or

(III) other applicable law; and

(ii) the requirements of which the Secretary determines to be—

(I) substantially equivalent to each of subparagraphs (A) and (B) of subsection (a)(1) and subparagraphs (A), (B), and (C) of subsection (a)(2); and

(II) in effect on or after the date of enactment of this Act; and

(B) require that a vulnerability assessment and site security plan address a particular threat or type of threat.

(2) NOTIFICATION OF SUBSTANTIAL EQUIVALENCY.—If the Secretary endorses or recognizes procedures, protocols, and standards under paragraph (1)(A), the Secretary shall provide notice to the person that submitted the petition.

(3) NO ACTION BY SECRETARY.—If the Secretary does not endorse or recognize existing procedures, protocols, and standards under paragraph (1)(A), the Secretary shall provide to each person that submitted a petition under paragraph (1) a written notification that includes a clear explanation of the reasons why the endorsement or recognition was not made.

(d) PREPARATION OF ASSESSMENTS AND PLANS.—As of the date of endorsement or recognition by the Secretary of a particular procedure, protocol, or standard under subsection (c)(1)(A), any vulnerability assessment or site security plan that is prepared by the owner or operator of a chemical source before, on, or after the date of endorsement or recognition of, and in accordance with, that procedure, protocol, or standard, shall, for the purposes of subsection (b)(3) and section ____04, be judged by the Secretary against that procedure, protocol, or standard rather than the relevant regulations promulgated under subsection (a)(1) (including such a vulnerability assessment or site security plan prepared before, on, or after the date of enactment of this Act).

(e) REGULATORY CRITERIA.—In exercising the authority under subsections (a) and (c) with respect to a chemical source, the Secretary shall consider—

(1) the likelihood that a chemical source will be the target of terrorism;

(2) the nature and quantity of the substances of concern present at a chemical source;

(3) the potential extent of death, injury, or serious adverse effects to human health or the environment that would result from a terrorist release;

(4) the potential harm to critical infrastructure and national security from a terrorist release;

(5) cost and technical feasibility;

(6) scale of operations; and

(7) such other security-related factors as the Secretary determines to be appropriate and necessary to protect the public health and welfare, critical infrastructure, and national security.

(f) LIST OF CHEMICAL SOURCES.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall develop a list of chemical sources in existence as of that date.

(2) CONSIDERATIONS.—In developing the list under paragraph (1), the Secretary shall consider the criteria specified in subsection (e).

(3) FUTURE DETERMINATIONS.—Not later than 3 years after the date of promulgation of regulations under subsection (a)(1) and every 3 years thereafter, the Secretary shall, after considering the criteria described in subsection (e)—

(A) determine whether additional stationary sources (including, as of the date of

the determination, facilities that are operational and facilities that will become operational in the future) shall be considered to be chemical sources under this title;

(B) determine whether any chemical source identified on the most recent list under paragraph (1) no longer presents a risk sufficient to justify retention of classification as a chemical source under this title; and

(C) update the list as appropriate.

(4) REGULATIONS.—The Secretary may make a determination under this subsection in regulations promulgated under subsection (a)(1).

(g) DESIGNATION, EXEMPTION, AND ADJUSTMENT OF THRESHOLD QUANTITIES OF SUBSTANCES OF CONCERN.—

(1) IN GENERAL.—The Secretary may, by regulation—

(A) designate certain chemical substances in particular threshold quantities as substances of concern under this title;

(B) exempt certain chemical substances from designation as substances of concern under this title; and

(C) adjust the threshold quantity of a chemical substance for purposes of this title.

(2) CONSIDERATIONS.—In designating or exempting a chemical substance or adjusting the threshold quantity of a chemical substance under paragraph (1), the Secretary shall consider the potential extent of death, injury, or serious adverse effects to human health or the environment that would result from a terrorist release of the chemical substance.

(3) REGULATIONS.—The Secretary may make a designation, exemption, or adjustment in regulations promulgated under subsection (a)(1).

(h) 5-YEAR REVIEW.—Not later than 5 years after the date of certification of a vulnerability assessment and a site security plan under subsection (b)(1), and not less often than every 5 years thereafter (or on such a schedule as the Secretary may establish by regulation), the owner or operator of the chemical source covered by the vulnerability assessment or site security plan shall—

(1) review the adequacy of the vulnerability assessment and site security plan; and

(2)(A) certify to the Secretary that the chemical source has completed the review and implemented any modifications to the site security plan; and

(B) submit to the Secretary a description of any changes to the vulnerability assessment or site security plan.

(i) NO PRIVATE RIGHT OF ACTION.—Nothing in this title—

(1) confers on any private person a right of action against an owner or operator of a chemical source to enforce any provision of this title;

(2) creates any liability on the part of an owner or operator of a chemical source arising out of any event that could not reasonably have been foreseen by the owner or operator; or

(3) affects any other remedies or defenses available under Federal or State law.

SEC. ___04. ENFORCEMENT.

(a) FAILURE TO COMPLY.—If an owner or operator of a chemical source fails to certify or submit a vulnerability assessment or site security plan in accordance with this title, the Secretary may issue an order requiring the certification and submission of a vulnerability assessment or site security plan in accordance with section ___03(b).

(b) DISAPPROVAL.—The Secretary may disapprove a vulnerability assessment or site security plan submitted under section ___03(b) if the Secretary determines that—

(1) the vulnerability assessment or site security plan does not comply with—

(A) a regulation promulgated under section ___03(a)(1); or

(B) a procedure, protocol, or standard endorsed or recognized under section ___03(c); or

(2) the site security plan, or the implementation of the site security plan, is insufficient to address—

(A) the results of a vulnerability assessment of a chemical source; or

(B) a threat or consequence of a terrorist release.

(c) COMPLIANCE.—If the Secretary disapproves a vulnerability assessment or site security plan of a chemical source under subsection (b), the Secretary shall—

(1) provide the owner or operator of the chemical source a written notification of the determination that includes a clear explanation of deficiencies in the vulnerability assessment, site security plan, or implementation of the assessment or plan;

(2) consult with the owner or operator of the chemical source to identify appropriate steps to achieve compliance; and

(3) if, following that consultation, the owner or operator of the chemical source does not achieve compliance by such date as the Secretary determines to be appropriate under the circumstances, issue an order requiring the owner or operator to correct specified deficiencies.

(d) EMERGENCY POWERS.—

(1) DEFINITION OF EMERGENCY THREAT.—In this subsection, the term ''emergency threat'' means a threat of a terrorist act that could result in a terrorist release at a chemical source—

(A) that is beyond the scope of the site security plan as implemented at the chemical source;

(B) the likelihood of the immediate occurrence of which is high;

(C) the consequences of which would be severe; and

(D) based on the factors described in subparagraphs (A) through (C), would not be appropriately and reasonably addressed, or addressed in a timely manner, by the Secretary under subsections (a) through (c).

(2) INITIATION OF ACTION.—

(A) IN GENERAL.—If the Secretary (in consultation with State and local law enforcement officials) determines that an emergency threat exists, the Secretary may bring a civil action on behalf of the United States in United States district court to immediately require each chemical source potentially subject to the emergency threat to take such actions as are necessary to respond to the emergency threat.

(B) NOTICE AND PARTICIPATION.—The Secretary shall provide to each chemical source that is the subject of a civil action under subparagraph (A)—

(i) notice of any injunctive relief to compel compliance with this subsection that is being sought; and

(ii) an opportunity to participate in any proceedings relating to the civil action.

(3) EMERGENCY ORDERS.—

(A) IN GENERAL.—If the Secretary determines that it is not practicable to ensure prompt action to protect public safety from an emergency threat by bringing a civil action under paragraph (2), the Secretary may issue such orders as are necessary to ensure public safety.

(B) CONSULTATION.—Before issuing an order under subparagraph (A), the Secretary shall—

(i) consult with State and local law enforcement officials; and

(ii) attempt to confirm the accuracy of the information on which the action proposed to be taken is based.

(C) EFFECTIVENESS OF ORDERS.—

(i) IN GENERAL.—An order issued by the Secretary under this paragraph shall be effective for the 60-day period beginning on the date of issuance of the order unless the Secretary brings a civil action under paragraph (2) before the expiration of that period.

(ii) EXTENSION OF EFFECTIVE PERIOD.—With respect to an order issued under this paragraph, the Secretary may bring a civil action before the end of the 60-day period described in clause (i) to extend the effective period of the order for—

(I) 14 days; or

(II) such longer period as the court in which the civil action is brought may authorize.

(e) PROTECTION OF INFORMATION.—Any determination of disapproval or order made or issued under this section shall be exempt from disclosure—

(1) under section 552 of title 5, United States Code;

(2) under any State or local law providing for public access to information; and

(3) except as provided in section ___08(d), in any Federal or State civil or administrative proceeding.

SEC. ___05. INTERAGENCY TECHNICAL SUPPORT AND COOPERATION.

The Secretary—

(1) may request other Federal agencies to provide technical and analytical support (other than field work) in carrying out this title;

(2) may provide reimbursement for such technical and analytical support received as the Secretary determines to be appropriate; and

(3) shall, in consultation with other relevant Federal agencies, take steps to minimize any duplicative administrative burdens on, or requirements of, any owner or operator of a chemical facility that are imposed by this Act and—

(A) the Maritime Transportation Security Act of 2002 (116 Stat. 2064) and the amendments made by that Act;

(B) the Public Health Security Preparedness and Bioterrorism and Response Act of 2002 (116 Stat. 594) and the amendments made by that Act; or

(C) any other Federal law.

SEC. ___06. RECORDKEEPING; SITE INSPECTIONS; PRODUCTION OF INFORMATION.

(a) RECORDKEEPING.—The owner or operator of a chemical source that is required to prepare a vulnerability assessment or site security plan under section ___03(a) shall maintain a current copy of those documents.

(b) RIGHT OF ENTRY.—In carrying out this title, the Secretary (or a designee), on presentation of credentials, shall have a right of entry to, on, or through—

(1) any premises of an owner or operator of a chemical source described in subsection (a); and

(2) any premises on which any record required to be maintained under subsection (a) is located.

(c) REQUESTS FOR RECORDS.—In carrying out this title, the Secretary (or a designee) may require the submission of, or, on presentation of credentials, may at reasonable times seek access to and copy—

(1) any records, reports, or other information described in subsection (a); and

(2) any other documentation necessary for—

(A) review or analysis of a vulnerability assessment or site security plan; or

(B) implementation of a site security plan.

(d) COMPLIANCE.—If the Secretary determines that an owner or operator of a chemical source is not maintaining, producing, or permitting access to records as required by this section, the Secretary may issue an order requiring compliance with the relevant provisions of this section.

SEC. ___07. PENALTIES.

(a) ADMINISTRATIVE PENALTIES.—

(1) PENALTY ORDERS.—The Secretary may impose an administrative penalty of not more than $250,000 for failure to comply with an order issued by the Secretary under this title.

(B) NOTICE AND HEARING.—Before issuing an order under subparagraph (A), the Secretary shall provide to the person against which the penalty is to be assessed—

(i) written notice of the proposed order; and

(ii) the opportunity to request, not later than 30 days after the date on which the person receives the notice, a hearing on the proposed order.

(3) PROCEDURES.—The Secretary may promulgate regulations establishing procedures for administrative hearings and appropriate review, including necessary deadlines.

(b) CIVIL PENALTIES.—Any owner or operator of a chemical source that violates or fails to comply with any order issued by the Secretary under this title or site security plan submitted to the Secretary under this title may, in a civil action brought in United States district court, be subject, for each day on which the violation occurs or the failure to comply continues, to—

(1) an order for injunctive relief; or

(2) a civil penalty of not more than $50,000.

(c) CRIMINAL PENALTIES.—An owner or operator of a chemical source that knowingly violates any order issued by the Secretary under this title or knowingly fails to comply with a site security plan submitted to the Secretary under this title shall be fined not more than $50,000 for each day of violation, imprisoned not more than 2 years, or both.

SEC. ___08. PROTECTION OF INFORMATION.

(a) DEFINITION OF PROTECTED INFORMATION.—

(1) IN GENERAL.—In this section, the term ''protected information'' means—

(A) a vulnerability assessment or site security plan required by subsection (a) or (b) of section ___03;

(B) any study, analysis, or other document generated by the owner or operator of a chemical source primarily for the purpose of preparing a vulnerability assessment or site security plan (including any alternative approach analysis); and

(C) any other information provided to or obtained or obtainable by the Secretary solely for the purposes of this title from the owner or operator of a chemical source that, if released, is reasonably likely to increase the probability or consequences of a terrorist release.

(2) OTHER OBLIGATIONS UNAFFECTED.—Nothing in this section affects—

(A) the handling, treatment, or disclosure of information obtained from a chemical source under any other law;

(B) any obligation of the owner or operator of a chemical source to submit or make available information to a Federal, State, or local government agency under, or otherwise to comply with, any other law; or

(C) the public disclosure of information derived from protected information, so long as the information disclosed—

(i) would not divulge methods or processes entitled to protection as trade secrets in accordance with the purposes of section 1905 of title 18, United States Code;

(ii) does not identify any particular chemical source; and

(iii) is not reasonably likely to increase the probability or consequences of a terrorist release,

even if the same information is also contained in a document referred to in paragraph (1).

(b) DISCLOSURE EXEMPTION.—Except with respect to certifications specified in paragraphs (1) and (5) of subsection (b) and subsection (h)(2)(A) of section ___03, protected information shall be exempt from disclosure under—

(1) section 552 of title 5, United States Code; and

(2) any State or local law providing for public access to information.

(c) DEVELOPMENT OF PROTOCOLS.—

(1) IN GENERAL.—The Secretary, in consultation with the Director of the Office of Management and Budget and appropriate Federal law enforcement and intelligence officials, and in a manner consistent with protections for sensitive or classified information, shall by regulation establish confidentiality protocols for maintenance and use of protected information.

(2) REQUIREMENTS FOR PROTOCOLS.—A protocol established under paragraph (1) shall ensure that—

(A) protected information shall be maintained in a secure location; and

(B) except as provided in subsection (e)(2), or as necessary for enforcement of this title or any law, in either case consistent with subsection (d), access to protected information shall be limited to persons designated by the Secretary, including State or local law enforcement officers or other officials (including first responders) to the extent disclosure is needed to carry out the purposes of this title or to further the investigation of a potential violation of any law.

(d) TREATMENT OF PROTECTED INFORMATION IN FEDERAL OR STATE ADMINISTRATIVE OR JUDICIAL PROCEEDINGS.—

(1) ADMINISTRATIVE PROCEEDINGS.—

(A) IN GENERAL.—In an administrative proceeding in which a person seeks to compel the disclosure of protected information or to offer protected information into evidence, the person to which the discovery request is directed, the person seeking to offer evidence, or the owner or operator of a chemical source shall provide written notice of the request to—

(i) the United States Attorney for the district in which the administrative entity conducting the proceeding is located;

(ii) the Secretary; and

(iii) the administrative entity conducting the proceeding.

(B) CONTENTS.—A notice under subparagraph (A) shall include a brief description of the protected information.

(C) RESPONSE BY THE SECRETARY.—

(i) IN GENERAL.—Not later than 60 days after the date on which the Secretary receives a notice under subparagraph (A), the Secretary shall issue to each entity described in that subparagraph a response to the notice.

(ii) DETERMINATION OF THREAT.—If the Secretary determines that disclosure of protected information covered by a notice under subparagraph (A) would pose a threat to public security or endanger the life or safety of any person, the Secretary shall have the authority to request from the administrative entity any prohibitions or restrictions on disclosure of the protected information necessary to avert such threat or danger.

(D) PROHIBITION.—

(i) IN GENERAL.—No party to an administrative proceeding may disclose protected information except consistently with any restrictions established by the administrative entity regarding that information.

(ii) NO RESPONSE.—If an administrative entity has not received a response from the Secretary by the date that is 60 days after the date of receipt by the Secretary of a notice under subparagraph (A), an administrative entity—

(I) shall determine whether the information covered by the notice qualifies as protected information that would pose a threat to public security or endanger the life or safety of a person if the information were publicly disclosed; and

(II) shall consider imposing any prohibitions or restrictions on disclosure of the protected information necessary to avert such threat or danger.

(2) JUDICIAL PROCEEDINGS.—

(A) IN GENERAL.—In a judicial proceeding in which a person seeks to compel the disclosure of protected information, or to offer protected information into evidence, the person to which the discovery request is directed, the person seeking to offer evidence, or the owner or operator of a chemical source shall provide written notice of the request to—

(i) the United States Attorney for the district in which the court conducting the proceeding is located;

(ii) the Secretary; and

(iii) the court of jurisdiction.

(B) CONTENTS.—A notice under subparagraph (A) shall include a brief description of the protected information.

(C) RESPONSE BY SECRETARY.—

(i) IN GENERAL.—Not later than 60 days after the date on which the Secretary receives a notice under subparagraph (A), the Secretary shall issue to each entity described in that subparagraph a response to the notice.

(ii) DETERMINATION OF THREAT.—If the Secretary determines that disclosure of protected information covered by a notice under subparagraph (A) would pose a threat to public security or endanger the life or safety of any person, the Secretary shall have the authority to request from the court of jurisdiction any prohibitions or restrictions on disclosure of the protected information necessary to avert such threat or danger.

(D) PROHIBITION.—

(i) IN GENERAL.—No party to a judicial proceeding may disclose protected information except consistently with any restrictions established by the judge regarding that information.

(ii) NO RESPONSE.—If a court of jurisdiction has not received a response from the Secretary by the date that is 60 days after the date of receipt by the Secretary of a notice under subparagraph (A), the court—

(I) shall determine whether the information qualifies as protected information that would pose a threat to public security or endanger the life or safety of a person if the information were publicly disclosed; and

(II) shall consider imposing any prohibitions or restrictions on disclosure of the protected information necessary to avert such a threat or danger.

(e) PENALTIES FOR UNAUTHORIZED DISCLOSURE.—

(1) IN GENERAL.—Except as provided in paragraph (2), any person referred to in subsection (c)(2)(B) that acquires any protected information, and that knowingly or recklessly discloses the protected information, shall—

(A) be imprisoned not more than 1 year, fined under title 18, United States Code (applicable to class A misdemeanors), or both; and

(B) if the person is a Federal officer or employee, be removed from Federal office or employment.

(2) EXCEPTIONS.—

(A) IN GENERAL.—Paragraph (1) shall not apply to a person described in that subparagraph that discloses protected information—

(i) to a person designated by the Secretary under subsection (c)(2)(B);

(ii) for the purpose of section 6; or

(iii) consistent with subsection (d), for use in any administrative or judicial proceeding to enforce, or to impose a penalty for failure to comply with, a requirement of this title.

(B) LAW ENFORCEMENT OFFICIALS AND FIRST RESPONDERS.—Notwithstanding paragraph (1), a person referred to in subsection (c)(2)(B) that is an officer or employee of the United States may disclose to a State or local law enforcement official or other official (including a first responder) the contents of a vulnerability assessment or site security plan, or other information described in that subsection, to the extent disclosure is necessary to carry out this title.

(f) CONGRESSIONAL ACCESS TO INFORMATION.—Nothing in this section authorizes the withholding of information from Congress.

SEC. ___09. PROVISION OF TRAINING AND OTHER ASSISTANCE.

(a) TRAINING.—The Secretary may provide training to State and local officials and owners and operators in furtherance of the purposes of this title.

(b) OTHER ASSISTANCE.—The Secretary shall provide assistance to facilities exempt from this Act under section ___02(B)(ii) to help the facilities develop voluntary measures to enhance the security of the facilities, including the prevention of theft.

SEC. ___10. JUDICIAL REVIEW.

(a) REGULATIONS.—Not later than 60 days after the date of promulgation of a regulation under this title, any person may file a petition for judicial review relating to the regulation with—

(1) the United States Court of Appeals for the District of Columbia; or

(2) with the United States circuit court—

(A) having jurisdiction over the State in which the person resides; or

(B) for the circuit in which the principal place of business of the person is located.

(b) FINAL AGENCY ACTIONS OR ORDERS.—Not later than 60 days after the date on which a chemical source receives notice of an action or order of the Secretary under this title with respect to the chemical source, the chemical source may file a petition for judicial review of the action or order with the United States district court for the district in which—

(1) the chemical source is located; or

(2) the owner or operator of the chemical source has a principal place of business.

(c) STANDARD OF REVIEW.—

(1) IN GENERAL.—On the filing of a petition under subsection (a) or (b), the court shall review the regulation or other final action or order that is the subject of the petition in accordance with chapter 7 of title 5, United States Code.

(2) BASIS.—

(A) IN GENERAL.—Judicial review of a regulation, or of a final agency action or order described in paragraph (1) that is based on an administrative hearing held on the record, shall be based on the record of the proceedings, comments, and other information that the Secretary considered in promulgating the regulation, taking the action, or issuing the order being reviewed.

(B) OTHER ACTIONS AND ORDERS.—Judicial review of a final agency action or order described in paragraph (1) that is not described in subparagraph (A) shall be based on any submissions to the Secretary relating to the action or order and any other information that the Secretary considered in taking the action or issuing the order.

SEC. ___11. NO EFFECT ON REQUIREMENTS UNDER OTHER LAW.

(a) IN GENERAL.—Except as provided in section ___08, nothing in this title affects any duty or other requirement imposed under any other Federal or State law.

(b) OTHER FEDERAL LAW.—

(1) IN GENERAL.—Notwithstanding subsection (a), an owner or operator of a chemical source that is required to prepare a site vulnerability assessment and implement a site security plan under any another Federal law may petition the Secretary to be subject to the other Federal law in lieu of this title.

(2) DETERMINATION OF SUBSTANTIAL EQUIVALENCE.—If the Secretary determines by rulemaking that a Federal law covered by a petition submitted by a chemical source under paragraph (1) is substantially equivalent to this title (including the requirements regarding alternative approaches under section ___03(a))—

(A) the Secretary may grant the petition; and

(B) the chemical source shall be subject to the other Federal law in lieu of this title.

SEC. ___12. AGRICULTURAL BUSINESS SECURITY GRANT PROGRAM.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term ''eligible entity'' means a retail or production agricultural business (including a business that is engaged in the production or processing of seafood) that employs not more than such number of individuals at a chemical source included in the list described in section ___03(f) as shall be determined by the Secretary, in consultation with the Administrator of the Small Business Administration and the Secretary of Agriculture.

(b) GRANTS.—The Secretary shall provide grants to an eligible entity that is a chemical source included in the list described in section ___03(f) selected under this section to enable the eligible entity at the chemical source—

(1) to improve security measures; and

(2) to protect against or reduce the consequence of a terrorist attack.

(c) CRITERIA.—In establishing criteria for the selection of, or in otherwise selecting, eligible entities to receive a grant under this section, the Secretary shall—

(1) consider on an individual, location-by-location basis, each applicant for a grant; and

(2) require each eligible entity that receives a grant to use funds from the grant only for the purposes described in subsection (b) in accordance with guidance of the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SA 3850. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 213, after line 12 insert the following:

TITLE IV—OTHER MATTERS

SEC. 401. INCLUSION OF VISA REVOCATIONS IN THE NATIONAL CRIME AND INFORMATION CENTER DATABASE.

(a) PROVISION OF INFORMATION TO NCIC.—

(1) IN GENERAL.—The Secretary of State, in consultation with the Secretary of Homeland Security, shall submit to the National Crime Information Center of the Department of Justice information regarding the revocation of an alien's visa and any other appropriate information regarding such alien. Such information shall be submitted regardless of whether the alien has been removed from the United States.

(2) INITIAL SUBMISSION OF INFORMATION.—Not later than 60 days after the date of enactment of this Act, the Secretary of State, in consultation with the Secretary of Homeland Security, shall submit to the National Crime Information Center the information described in paragraph (1) for any alien whose visa was revoked prior to the date of enactment of this Act.

(b) AUTHORITY TO RECEIVE INFORMATION.—

(1) IN GENERAL.—Section 534(a) of title 28, United States Code, is amended by adding at the end the following new paragraph:

''(5) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States.''.

(2) CONFORMING AMENDMENTS.—Such section, as amended by paragraph (1), is further amended—

(A) in paragraph (3), by striking ''and'' at the end; and

(B) in paragraph (4), by striking the period at the end and inserting a semicolon and ''and''.

(c) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

SA 3851. Mr. GRASSLEY (for himself, Mr. CHAMBLISS, and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 213, strike line 12 and insert the following:

carry out this Act and the amendments made by this Act.

TITLE IV—OTHER MATTERS

SEC. 401. VISA REVOCATION.

(a) LIMITATION ON REVIEW.—Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) is amended by adding at the end the following: ''There shall be no means of administrative or judicial review of a revocation under this subsection, and no court or other person otherwise shall have jurisdiction to consider any claim challenging the validity of such a revocation.''.

(b) CLASSES OF DEPORTABLE ALIENS.—Section 237(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(1)(B)) is amended by striking ''United States is'' and inserting the following: ''United States, or whose visa (or other documentation authorizing admission into the United States) has been revoked under section 221(i), is''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to revocations under section 221(i) of the Immigration and Nationality Act made before, on, or after such date.

SA 3852. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following new title:

TITLE IV—INTERVIEWS OF VISA APPLICANTS

SEC. 401. REQUIREMENT OF PERSONAL INTERVIEWS OF VISA APPLICANTS.

Section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

''(h) Notwithstanding any other provision of this Act, each consular officer shall—

''(1) with respect to an alien who is at least 16 years of age and not more than 60 years of

age and who is applying for a nonimmigrant visa, require the alien to submit to a personal interview in accordance with such regulations as may be prescribed unless—

''(A) such alien is within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G) or is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof;

''(B) such alien is applying for a visa—

''(i) not more than 12 months after the date on which the alien's prior visa expired;

''(ii) for the classification under section 101(a)(15) for which such prior visa was issued; and

''(iii) from the consular post located near the alien's usual residence; or

''(C) the consular officer determines that it is in the national interest of the United States to waive the personal interview of such alien and properly documents the justification for such waiver;

''(2) with respect to an alien who is at least 14 years of age and not more than 80 years of age and who is applying for a nonimmigrant visa, require the alien to appear in person for the purpose of providing biometric data, including electronic fingerscans, in accordance with such regulations as may be prescribed unless such alien is within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G); and

''(3) with respect to an alien who is applying for an immigrant or a nonimmigrant visa who is a national of a country officially designated by the Secretary of State as a state sponsor of terrorism, require the alien to submit to a personal interview in accordance with such regulations as may be prescribed.''.

SA 3853. Mr. GRASSLEY (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following new title:

TITLE IV—FEDERAL BUREAU OF INVESTIGATION REFORM

SEC. 401. SHORT TITLE.

This title may be cited as the ''Federal Bureau of Investigation Reform Act of 2004''.

Subtitle A—Whistleblower Protection

SEC. 411. INCREASING PROTECTIONS FOR FBI WHISTLEBLOWERS.

Section 2303 of title 5, United States Code, is amended to read as follows:

''§ 2303. Prohibited personnel practices in the Federal Bureau of Investigation

''(a) DEFINITION.—In this section, the term 'personnel action' means any action described in clauses (i) through (x) of section 2302(a)(2)(A).

''(b) PROHIBITED PRACTICES.—Any employee of the Federal Bureau of Investigation who has the authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to any employee of the Bureau or because of—

''(1) any disclosure of information by the employee to the Attorney General (or an employee designated by the Attorney General for such purpose), a supervisor of the employee, the Inspector General for the Department of Justice, or a Member of Congress that the employee reasonably believes evidences—

''(A) a violation of any law, rule, or regulation; or

''(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; or

''(2) any disclosure of information by the employee to the Special Counsel of information that the employee reasonably believes evidences—

''(A) a violation of any law, rule, or regulation; or

''(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

''(c) INDIVIDUAL RIGHT OF ACTION.—Chapter 12 of this title shall apply to an employee of the Federal Bureau of Investigation who claims that a personnel action has been taken under this section against the employee as a reprisal for any disclosure of information described in subsection (b)(2).

''(d) REGULATIONS.—The Attorney General shall prescribe regulations to ensure that a personnel action under this section shall not be taken against an employee of the Federal Bureau of Investigation as a reprisal for any disclosure of information described in subsection (b)(1), and shall provide for the enforcement of such regulations in a manner consistent with applicable provisions of sections 1214 and 1221, and in accordance with the procedures set forth in sections 554 through 557 and 701 through 706.''.

Subtitle B—FBI Security Career Program

SEC. 421. SECURITY MANAGEMENT POLICIES.

The Attorney General shall establish policies and procedures for the effective management (including accession, education, training, and career development) of persons serving in security positions in the Federal Bureau of Investigation.

SEC. 422. DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) IN GENERAL.—Subject to the authority, direction, and control of the Attorney General, the Director of the Federal Bureau of Investigation (referred to in this title as the ''Director'') shall carry out all powers, functions, and duties of the Attorney General with respect to the security workforce in the Federal Bureau of Investigation.

(b) POLICY IMPLEMENTATION.—The Director shall ensure that the policies of the Attorney General established in accordance with this title are implemented throughout the Federal Bureau of Investigation at both the headquarters and field office levels.

SEC. 423. DIRECTOR OF SECURITY.

The Director shall appoint a Director of Security, or such other title as the Director may determine, to assist the Director in the performance of the duties of the Director under this title.

SEC. 424. SECURITY CAREER PROGRAM BOARDS.

(a) ESTABLISHMENT.—The Director acting through the Director of Security shall establish a security career program board to advise the Director in managing the hiring, training, education, and career development of personnel in the security workforce of the Federal Bureau of Investigation.

(b) COMPOSITION OF BOARD.—The security career program board shall include—

(1) the Director of Security (or a representative of the Director of Security);

(2) the senior officials, as designated by the Director, with responsibility for personnel management;

(3) the senior officials, as designated by the Director, with responsibility for information management;

(4) the senior officials, as designated by the Director, with responsibility for training and career development in the various security disciplines; and

(5) such other senior officials for the intelligence community as the Director may designate.

(c) CHAIRPERSON.—The Director of Security (or a representative of the Director of Security) shall be the chairperson of the board.

(d) SUBORDINATE BOARDS.—The Director of Security may establish a subordinate board structure to which functions of the security career program board may be delegated.

SEC. 425. DESIGNATION OF SECURITY POSITIONS.

(a) DESIGNATION.—The Director shall designate, by regulation, those positions in the Federal Bureau of Investigation that are security positions for purposes of this title.

(b) REQUIRED POSITIONS.—In designating security positions under subsection (a), the Director shall include, at a minimum, all security-related positions in the areas of—

(1) personnel security and access control;

(2) information systems security and information assurance;

(3) physical security and technical surveillance countermeasures;

(4) operational, program, and industrial security; and

(5) information security and classification management.

SEC. 426. CAREER DEVELOPMENT.

(a) CAREER PATHS.—The Director shall ensure that appropriate career paths for personnel who wish to pursue careers in security are identified in terms of the education, training, experience, and assignments necessary for career progression to the most senior security positions and shall make available published information on those career paths.

(b) LIMITATION ON PREFERENCE FOR SPECIAL AGENTS.—

(1) IN GENERAL.—Except as provided in the policy established under paragraph (2), the Attorney General shall ensure that no requirement or preference for a Special Agent of the Federal Bureau of Investigation (referred to in this title as a ''Special Agent'') is used in the consideration of persons for security positions.

(2) POLICY.—The Attorney General shall establish a policy that permits a particular security position to be specified as available only to Special Agents, if a determination is made, under criteria specified in the policy, that a Special Agent—

(A) is required for that position by law;

(B) is essential for performance of the duties of the position; or

(C) is necessary for another compelling reason.

(3) REPORT.—Not later than December 15 of each year, the Director shall submit to the Attorney General a report that lists—

(A) each security position that is restricted to Special Agents under the policy established under paragraph (2); and

(B) the recommendation of the Director as to whether each restricted security position should remain restricted.

(c) OPPORTUNITIES TO QUALIFY.—The Attorney General shall ensure that all personnel, including Special Agents, are provided the opportunity to acquire the education, training, and experience necessary to qualify for senior security positions.

(d) BEST QUALIFIED.—The Attorney General shall ensure that the policies established under this title are designed to provide for the selection of the best qualified individual for a position, consistent with other applicable law.

(e) ASSIGNMENTS POLICY.—The Attorney General shall establish a policy for assigning Special Agents to security positions that provides for a balance between—

(1) the need for personnel to serve in career enhancing positions; and

(2) the need for requiring service in each such position for sufficient time to provide the stability necessary to carry out effectively the duties of the position and to allow for the establishment of responsibility and accountability for actions taken in the position.

(f) LENGTH OF ASSIGNMENT.—In implementing the policy established under subsection (b)(2), the Director shall provide, as appropriate, for longer lengths of assignments to security positions than assignments to other positions.

(g) PERFORMANCE APPRAISALS.—The Director shall provide an opportunity for review and inclusion of any comments on any appraisal of the performance of a person serving in a security position by a person serving in a security position in the same security career field.

(h) BALANCED WORKFORCE POLICY.—In the development of security workforce policies under this title with respect to any employees or applicants for employment, the Attorney General shall, consistent with the merit system principles set out in paragraphs (1) and (2) of section 2301(b) of title 5, United States Code, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

SEC. 427. GENERAL EDUCATION, TRAINING, AND EXPERIENCE REQUIREMENTS.

(a) IN GENERAL.—The Director shall establish education, training, and experience requirements for each security position, based on the level of complexity of duties carried out in the position.

(b) QUALIFICATION REQUIREMENTS.—Before being assigned to a position as a program manager or deputy program manager of a significant security program, a person—

(1) must have completed a security program management course that is accredited by the Intelligence Community-Department of Defense Joint Security Training Consortium or is determined to be comparable by the Director; and

(2) must have not less than 6 years experience in security, of which not less than 2 years were performed in a similar program office or organization.

SEC. 428. EDUCATION AND TRAINING PROGRAMS.

(a) IN GENERAL.—The Director, in consultation with the Director of Central Intelligence and the Secretary of Defense, shall establish and implement education and training programs for persons serving in security positions in the Federal Bureau of Investigation.

(b) OTHER PROGRAMS.—The Director shall ensure that programs established under subsection (a) are established and implemented, to the maximum extent practicable, uniformly with the programs of the Intelligence Community and the Department of Defense.

SEC. 429. OFFICE OF PERSONNEL MANAGEMENT APPROVAL.

(a) IN GENERAL.—The Attorney General shall submit any requirement that is established under section 207 to the Director of the Office of Personnel Management for approval.

(b) FINAL APPROVAL.—If the Director does not disapprove the requirements established under section 207 within 30 days after the date on which the Director receives the requirement, the requirement is deemed to be approved by the Director of the Office of Personnel Management.

Subtitle C—FBI Counterintelligence Polygraph Program

SEC. 431. DEFINITIONS.

In this title:

(1) POLYGRAPH PROGRAM.—The term ''polygraph program'' means the counterintelligence screening polygraph program established under section 302.

(2) POLYGRAPH REVIEW.—The term ''Polygraph Review'' means the review of the scientific validity of the polygraph for counterintelligence screening purposes conducted by the Committee to Review the Scientific Evidence on the Polygraph of the National Academy of Sciences.

SEC. 432. ESTABLISHMENT OF PROGRAM.

Not later than 6 months after the date of enactment of this Act, the Attorney General, in consultation with the Director of the Federal Bureau of Investigation and the Director of Security of the Federal Bureau of Investigation, shall establish a counterintelligence screening polygraph program for the Federal Bureau of Investigation that consists of periodic polygraph examinations of employees, or contractor employees of the Federal Bureau of Investigation who are in positions specified by the Director of the Federal Bureau of Investigation as exceptionally sensitive in order to minimize the potential for unauthorized release or disclosure of exceptionally sensitive information.

SEC. 433. REGULATIONS.

(a) IN GENERAL.—The Attorney General shall prescribe regulations for the polygraph program in accordance with subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedures Act).

(b) CONSIDERATIONS.—In prescribing regulations under subsection (a), the Attorney General shall—

(1) take into account the results of the Polygraph Review; and

(2) include procedures for—

(A) identifying and addressing false positive results of polygraph examinations;

(B) ensuring that adverse personnel actions are not taken against an individual solely by reason of the physiological reaction of the individual to a question in a polygraph examination, unless—

(i) reasonable efforts are first made independently to determine through alternative means, the veracity of the response of the individual to the question; and

(ii) the Director of the Federal Bureau of Investigation determines personally that the personnel action is justified;

(C) ensuring quality assurance and quality control in accordance with any guidance provided by the Department of Defense Polygraph Institute and the Director of Central Intelligence; and

(D) allowing any employee or contractor who is the subject of a counterintelligence screening polygraph examination under the polygraph program, upon written request, to have prompt access to any unclassified reports regarding an examination that relates to any adverse personnel action taken with respect to the individual.

SEC. 434. REPORT ON FURTHER ENHANCEMENT OF FBI PERSONNEL SECURITY PROGRAM.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to Congress a report setting forth recommendations for any legislative action that the Director considers appropriate in order to enhance the personnel security program of the Federal Bureau of Investigation.

(b) POLYGRAPH REVIEW RESULTS.—Any recommendation under subsection (a) regarding the use of polygraphs shall take into account the results of the Polygraph Review.

Subtitle D—Reports

SEC. 441. REPORT ON LEGAL AUTHORITY FOR FBI PROGRAMS AND ACTIVITIES.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Attorney General shall submit to Congress a report describing the statutory and other legal authority for all programs and activities of the Federal Bureau of Investigation.

(b) CONTENTS.—The report submitted under subsection (a) shall describe—

(1) the titles within the United States Code and the statutes for which the Federal Bureau of Investigation exercises investigative responsibility;

(2) each program or activity of the Federal Bureau of Investigation that has express statutory authority and the statute which provides that authority; and

(3) each program or activity of the Federal Bureau of Investigation that does not have express statutory authority, and the source of the legal authority for that program or activity.

(c) RECOMMENDATIONS.—The report submitted under subsection (a) shall recommend whether—

(1) the Federal Bureau of Investigation should continue to have investigative responsibility for each statute for which the Federal Bureau of Investigation currently has investigative responsibility;

(2) the legal authority for any program or activity of the Federal Bureau of Investigation should be modified or repealed;

(3) the Federal Bureau of Investigation should have express statutory authority for any program or activity of the Federal Bureau of Investigation for which the Federal Bureau of Investigation does not currently have express statutory authority; and

(4) the Federal Bureau of Investigation should—

(A) have authority for any new program or activity; and

(B) express statutory authority with respect to any new programs or activities.

Subtitle E—Ending the Double Standard

SEC. 451. ALLOWING DISCIPLINARY SUSPENSIONS OF MEMBERS OF THE SENIOR EXECUTIVE SERVICE FOR 14 DAYS OR LESS.

Section 7542 of title 5, United States Code, is amended by striking ''for more than 14 days''.

SEC. 452. SUBMITTING OFFICE OF PROFESSIONAL RESPONSIBILITY REPORTS TO CONGRESSIONAL COMMITTEES.

(a) IN GENERAL.—For each of the 5 years following the date of enactment of this Act, the Office of the Inspector General shall submit to the chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives an annual report to be completed by the Federal Bureau of Investigation, Office of Professional Responsibility and provided to the Inspector General, which sets forth—

(1) basic information on each investigation completed by that Office;

(2) the findings and recommendations of that Office for disciplinary action; and

(3) what, if any, action was taken by the Director of the Federal Bureau of Investigation or the designee of the Director based on any such recommendation.

(b) CONTENTS.—In addition to all matters already included in the annual report described in subsection (a), the report shall also include an analysis of—

(1) whether senior Federal Bureau of Investigation employees and lower level Federal Bureau of Investigation personnel are being disciplined and investigated similarly; and

(2) whether any double standard is being employed to more senior employees with respect to allegations of misconduct.

Subtitle F—Enhancing Security at the Department of Justice

SEC. 461. REPORT ON THE PROTECTION OF SECURITY AND INFORMATION AT THE DEPARTMENT OF JUSTICE.

Not later than 9 months after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the manner in which the Security and Emergency Planning Staff, the Office of Intelligence Policy and Review, and the Chief Information Officer of the Department of Justice plan to improve the protection of security and information at the Department of Justice, including a plan to establish secure electronic communications between the Federal Bureau of Investigation and the Office of Intelligence Policy and Review for processing information related to the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

SEC. 462. AUTHORIZATION FOR INCREASED RESOURCES TO PROTECT SECURITY AND INFORMATION.

There are authorized to be appropriated to the Department of Justice for the activities of the Security and Emergency Planning Staff to meet the increased demands to provide personnel, physical, information, technical, and litigation security for the Department of Justice, to prepare for terrorist threats and other emergencies, and to review security compliance by components of the Department of Justice—

(1) $13,000,000 for fiscal years 2005 and 2006;

(2) $17,000,000 for fiscal year 2007; and

(3) $22,000,000 for fiscal year 2008.

SEC. 463. AUTHORIZATION FOR INCREASED RESOURCES TO FULFILL NATIONAL SECURITY MISSION OF THE DEPARTMENT OF JUSTICE.

There are authorized to be appropriated to the Department of Justice for the activities of the Office of Intelligence Policy and Review to help meet the increased personnel demands to combat terrorism, process applications to the Foreign Intelligence Surveillance Court, participate effectively in counterespionage investigations, provide policy analysis and oversight on national security matters, and enhance secure computer and telecommunications facilities—

(1) $7,000,000 for fiscal years 2005 and 2006;

(2) $7,500,000 for fiscal year 2007; and

(3) $8,000,000 for fiscal year 2008.

SA 3854. Mr. TALENT submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. STATE REPROGRAMMING OF GRANT FUNDS.

Subtitle A of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 361 et seq.) is amended by adding at the end the following:

"SEC. 802. STATE REPROGRAMMING OF GRANT FUNDS.

''(a) AUTHORIZATION.—The Director of the Office for State and Local Government Coordination and Preparedness may approve requests from the senior official responsible for emergency preparedness and response in each State to reprogram funds appropriated for the State Homeland Security Grant Program of the Office for State and Local Government Coordination and Preparedness to address specific security requirements that are based on credible threat assessments, particularly threats that arise after the State has submitted an application describing its intended use of such grant funds.

''(b) LIMITATION.—For each State, the amount of funds reprogrammed under this section shall not exceed 10 percent of the total annual allocation for such State under the State Homeland Security Grant Program; and

''(c) CONSULTATION.—Before reprogramming funds under this section, a State official described in subsection (a) shall consult with relevant local officials.''.

SA 3855. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COMBATTING TERRORIST FINANCING.

(a) SPECIFIED ACTIVITIES FOR MONEY LAUNDERING.—

(1) RICO DEFINITIONS.—Section 1961(1) of title 18, United States Code, is amended—

(A) in subparagraph (A), by inserting ''burglary, embezzlement,'' after ''robbery,'';

(B) in subparagraph (B), by—

(i) inserting ''section 1960 (relating to illegal money transmitters),'' before ''sections 2251'';

(ii) striking ''1588'' and inserting ''1592'';

(iii) inserting ''and 1470'' after ''1461–1465''; and

(iv) inserting ''2252A,'' after ''2252,'';

(C) in subparagraph (D), by striking ''fraud in the sale of securities'' and inserting ''fraud in the purchase or sale of securities''; and

(D) in subparagraph (F), by inserting ''and 274A'' after ''274''.

(2) MONETARY INVESTMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(A) by inserting '', or section 2339C (relating to financing of terrorism)'' before ''of this title''; and

(B) by striking ''or any felony violation of the Foreign Corrupt Practices Act'' and inserting ''any felony violation of the Foreign Corrupt Practices Act, or any violation of section 208 of the Social Security Act (42 U.S.C. 408) (relating to obtaining funds through misuse of a social security number)''.

(3) CONFORMING AMENDMENTS.—

(A) MONETARY INSTRUMENTS.—Section 1956(e) of title 18, United States Code, is amended to read as follows:

''(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland Security may direct, with respect to the offenses over which the Social Security Administration has jurisdiction, as the Commissioner of Social Security may direct, and with respect to offenses over which the United States Postal Service has jurisdiction, as the Postmaster General may direct. The authority under this subsection of the Secretary of the Treasury, the Secretary of Homeland Security, the Commissioner of Social Security, and the Postmaster General shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Commissioner of Social Security, the Postmaster General, and the Attorney General. Violations of this section involving offenses described in subsection (c)(7)(E) may be investigated by such components of the Department of Justice as the Attorney General may direct, and the National Enforcement Investigations Center of the Environmental Protection Agency.''.

(B) PROPERTY FROM UNLAWFUL ACTIVITY.—Section 1957(e) of title 18, United States Code, is amended to read as follows:

''(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland Security may direct, and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postmaster General. The authority under this subsection of the Secretary of the Treasury, the Secretary of Homeland Security, and the Postmaster General shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Postmaster General, and the Attorney General.''.

(b) ILLEGAL MONEY TRANSMITTING BUSINESSES.—

(1) TECHNICAL AMENDMENTS.—Section 1960 of title 18, United States Code, is amended—

(A) in the caption by striking ''unlicensed'' and inserting ''illegal'';

(B) in subsection (a), by striking ''unlicensed'' and inserting ''illegal'';

(C) in subsection (b)(1), by striking ''unlicensed'' and inserting ''illegal''; and

(D) in subsection (b)(1)(C), by striking ''to be used to be used'' and inserting ''to be used''.

(2) PROHIBITION ON UNLICENSED MONEY TRANSMITTING BUSINESSES.—Section 1960(b)(1)(B) of title 18, United States Code, is amended by inserting the following before the semicolon: '', whether or not the defendant knew that the operation was required to comply with such registration requirements''.

(3) AUTHORITY TO INVESTIGATE.—Section 1960 of title 18, United States Code, is amended by adding at the end the following:

''(c) Investigations of violations of this section shall be coordinated by the Secretary of the Treasury, and may be conducted by the Attorney General, the Secretary of the Treasury, and the Secretary of the Department of Homeland Security.''.

(c) ASSETS OF PERSONS COMMITTING TERRORIST ACTS AGAINST FOREIGN COUNTRIES OR INTERNATIONAL ORGANIZATIONS.—Section 981(a)(1)(G) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting ''; or''; and

(3) by inserting after clause (iii) the following:

''(iv) of any individual, entity, or organization engaged in planning or perpetrating any act of international terrorism (as defined in section 2331) against any international organization (as defined in section 209 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4309(b))) or against any foreign government. Where the property sought for forfeiture is located beyond the territorial boundaries of the United States, an act in furtherance of such planning or perpetration must have occurred within the jurisdiction of the United States.''.

(d) MONEY LAUNDERING THROUGH INFORMAL VALUE TRANSFER SYSTEMS.—Section 1956(a)

of title 18, United States Code, is amended by adding at the end the following:

''(4) A transaction described in paragraph (1) or a transportation, transmission, or transfer described in paragraph (2) shall be deemed to involve the proceeds of specified unlawful activity, if the transaction, transportation, transmission, or transfer is part of a single plan or arrangement whose purpose is described in either of those paragraphs and one part of such plan or arrangement actually involves the proceeds of specified unlawful activity.''.

(e) TECHNICAL CORRECTIONS TO FINANCING OF TERRORISM STATUTE.—

(1) CONCEALMENT.—Section 2339C(c)(2) of title 18, United States Code, is amended—

(A) by striking ''resources, or funds'' and inserting ''resources, or any funds or proceeds of such funds'';

(B) in subparagraph (A), by striking ''were provided'' and inserting ''are to be provided, or knowing that the support or resources were provided,''; and

(C) in subparagraph (B)—

(i) by striking ''or any proceeds of such funds''; and

(ii) by striking ''were provided or collected'' and inserting ''are to be provided or collected, or knowing that the funds were provided or collected,''.

(2) DEFINITIONS.—Section 2339C(e) of title 18, United States Code, is amended—

(A) by striking ''and'' at the end of paragraph (12);

(B) redesignating paragraph (13) as paragraph (14); and

(C) inserting after paragraph (12) the following new paragraph:

''(13) the term 'material support or resources' has the same meaning as in section 2339A(b) of this title; and''.

(3) INTERNATIONAL TERRORISM.—Section 2332b(g)(5)(B) of title 18, United States Code, is amended by inserting '')'' after ''2339C (relating to financing of terrorism''.

(f) MISCELLANEOUS AND TECHNICAL AMENDMENTS.—

(1) CRIMINAL FORFEITURE.—Section 982(b) of title 18, United States Code, is amended in subsection (b)(2), by striking ''The substitution'' and inserting ''With respect to a forfeiture under subsection (a)(1), the substitution''.

(2) TECHNICAL AMENDMENTS TO SECTIONS 1956 AND 1957.—

(A) UNLAWFUL ACTIVITY.—Section 1956(c)(7)(F) of title 18, United States Code, is amended by inserting '', as defined in section 24'' before the period.

(B) PROPERTY FROM UNLAWFUL ACTIVITY.—Section 1957 of title 18, United States Code, is amended—

(i) in subsection (a), by striking ''engages or attempts to engage in'' and inserting ''conducts or attempts to conduct''; and

(ii) in subsection (f), by inserting the following after paragraph (3):

''(4) the term 'conducts' has the same meaning as it does for purposes of section 1956 of this title.''.

(3) OBSTRUCTION OF JUSTICE.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by striking ''or'' the first time it appears and inserting '', a subpoena issued pursuant to section 1782 of title 28, or''.

(g) EXTENSION OF MONEY LAUNDERING AND FINANCIAL CRIMES STRATEGY ACT OF 1998.—

(1) TRANSMITTAL TO CONGRESS.—Section 5341(a)(2) of title 31, United States Code, is amended by striking ''and 2003'' and inserting ''2003, 2005, 2006, and 2007''.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 5355 of title 31, United States Code, is amended by adding at the end the following:

''2005 ..... $15,000,000
''2006 ..... $15,000,000
''2007 ..... $15,000,000.''.

SEC. ___. INCREASED PENALTIES FOR SMUGGLING GOODS.

(a) INCREASED PENALTY.—The third undesignated paragraph of section 545, United States Code, is amended by striking ''five years'' and inserting ''20 years''.

(b) ENHANCED PENALTY FOR CAUSING DEATH.—

(1) AMENDMENT OF FEDERAL SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide sentencing enhancements for an offense under section 545 of title 18, United States Code, as amended by this Act, that results in the death of a person.

(2) CONSISTENCY WITH OTHER GUIDELINES.—In carrying out this section, the United States Sentencing Commission shall—

(A) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(B) avoid duplicative punishments for substantially the same offense.

SA 3856. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. UNITED STATES INTERDICTION COORDINATOR.

(a) IN GENERAL.—Section 704 of the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1703), as enforced in law notwithstanding repeal, is amended by adding at the end the following:

''(i) UNITED STATES INTERDICTION COORDINATOR.—

''(1) IN GENERAL.—There shall be a United States Interdiction Coordinator, who shall be designated by the Director and who shall be responsible for the coordination of interdiction operations among National Drug Control Program Agencies to prevent and reduce the illegal importation of drugs into the United States.

''(2) RESPONSIBILITIES.—The United States Interdiction Coordinator shall be responsible to the Director for—

''(A) coordinating the interdiction of the National Drug Control Program Agencies activities to ensure consistency with the National Drug Control Strategy;

''(B) developing a National Drug Control Interdiction plan to ensure consistency with the National Drug Control Strategy;

''(C) assessing the sufficiency of assets of the National Drug Control Program Agencies committed to illicit drug interdiction; and

''(D) advising the Director on the efforts of each National Drug Control Program Agency to implement the National Drug Control Interdiction plan.''.

(b) AMENDMENT TO HOMELAND SECURITY ACT OF 2002.—Section 878 of the Homeland Security Act of 2002 (6 U.S.C. 458) is amended by striking ''shall—'' through paragraph (2) and inserting ''shall ensure the adequacy of resources within the Department for illicit drug interdiction.''.

SA 3857. Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 10, strike lines 9 through 15, and insert the following:

(II) by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

''(9) managing the Homeland Security Information Clearinghouse established under section 801(d); and

''(10) managing the Noble Training Center in Fort McClellan, Alabama, through the Center for Domestic Preparedness.'';

SA 3858. Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 10, strike line 20 and all that follows through page 11, line 7, and insert the following:

''(d) DESIGNATION.—The Center for Domestic Preparedness shall be designated as the National First Responder Training Center within the Office for Domestic Preparedness.''.

SA 3859. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 94, between lines 14 and 15, insert the following:

(3) There may be established under this subsection a separate national intelligence center having an area of intelligence responsibility for each of the following:

(A) The nuclear terrorism threats confronting the United States.

(B) The chemical terrorism threats confronting the United States.

(C) The biological terrorism threats confronting the United States.

On page 94, line 15, strike ''(3)'' and insert ''(4)''.

SA 3860. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. INTELLIGENCE COMMUNITY USE OF NISAC CAPABILITIES.

The National Intelligence Director shall establish a formal relationship, including information sharing, between the intelligence community and the National Infrastructure Simulation and Analysis Center. Through this relationship, the intelligence community shall take full advantage of the capabilities of the National Infrastructure Simulation and Analysis Center, particularly vulnerability and consequence analysis, for real time response to reported threats and long term planning for projected threats.

SA 3861. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. BORDER SURVEILLANCE.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the President and the appropriate committees of Congress a comprehensive plan for the systematic surveillance of the Southwest border of the United States by remotely piloted aircraft.

(b) CONTENTS.—The plan submitted under subsection (a) shall include—

(1) recommendations for establishing command and control centers, operations sites, infrastructure, maintenance, and procurement;

(2) cost estimates for the implementation of the plan and ongoing operations;

(3) recommendations for the appropriate agent within the Department of Homeland Security to be the executive agency for remotely piloted aircraft operations;

(4) the number of remotely piloted aircraft required for the plan;

(5) the types of missions the plan would undertake, including—

(A) protecting the lives of people seeking illegal entry into the United States;

(B) interdicting illegal movement of people, weapons, and other contraband across the border;

(C) providing investigative support to assist in the dismantling of smuggling and criminal networks along the border;

(D) using remotely piloted aircraft to serve as platforms for the collection of intelligence against smugglers and criminal networks along the border; and

(E) further validating and testing of remotely piloted aircraft for airspace security missions; and

(6) the equipment necessary to carry out the plan.

(c) IMPLEMENTATION.—The Secretary of Homeland Security shall implement the plan submitted under subsection (a) as soon as sufficient funds are appropriated and available for this purpose.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SA 3862. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following new title:

TITLE IV—OTHER MATTERS.

SEC. 401. INFORMATION-BASED IDENTITY AUTHENTICATION OF DRIVER'S LICENSES.

(a) NEW REQUIREMENTS.—

(1) REDESIGNATION.—Chapter 303 of title 49, United States Code, is amended—

(A) by striking section 30308; and

(B) by redesignating sections 30306 and 30307 as sections 30307 and 30308, respectively.

(2) IDENTIFICATION REQUIREMENTS.—Chapter 303 of such title is further amended by inserting after section 30305 the following new section:

''§ 30306. Requirement for information-based identity authentication

''(a) IDENTIFICATION AUTHENTICATION STANDARDS.—The Secretary of Transportation, in consultation with the Secretary of Homeland Security and the Administrator of the Federal Motor Carrier Safety Administration, shall prescribe regulations that set forth minimum standards for the use by a State of a system of information-based identity authentication in determining the identity of an applicant for a motor vehicle operator's license prior to the issuance, renewal, transfer, or upgrading of a motor vehicle operator's license.

''(b) CONTENT OF REGULATIONS.—The regulations required under subsection (a) shall require a State to use a system of information-based identity authentication that—

''(1) utilizes multiple sources of information related to the identity of the applicant for a motor vehicle operator's license, including government records and publicly available information;

''(2) enables the measurement of the accuracy of the determination of the identity of the applicant;

''(3) provides for the continuous auditing of the compliance of such system with applicable laws, policies, and practices governing the collection, use, and distribution of information in the operation of the system; and

''(4) incorporates industry best practices in the protection of privacy interests related to such information and the safeguarding of the storage of such information.

''(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to authorize the Secretary of Transportation or the head of any other Federal agency to create a new database for States to use in connection with information-based identity authentication.''.

(3) INFORMATION-BASED IDENTITY AUTHENTICATION DEFINED.—Section 30301 of such title is amended by adding at the end the following new paragraph:

''(9) 'information-based identity authentication' means the validation and verification of the information provided by an individual for the purpose of determining the identity of such individual through the use of other information pertaining to the individual that is obtained from reliable sources of information available in the public and private sectors.''.

(4) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 303 of title 49, United States Code, is amended by striking the items relating to sections 30306, 30307, and 30308 and inserting the following items:

''30306. Requirement for information-based identity authentication.
''30307. National Driver Registry Advisory Committee.
''30308. Criminal penalties.''.

(b) FINAL REGULATIONS.—The Secretary of Transportation shall issue final regulations under section 30306(a) of title 49, United States Code (as added by subsection (a)(2)), not later than 180 days after the date of the enactment of this Act.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to authorize the Secretary of Transportation or the head of any other Federal agency to create a new database for States to use in connection with information-based identity authentication (as that term is defined in section 30301(9) of title 49, United States Code (as added by subsection (a)(2)).

SA 3863. Mr. MCCAIN (for himself, Mr. BREAUX, Mr. LAUTENBERG, Mr. BIDEN, Mr. SCHUMER, Ms. SNOWE, Mr. HOLLINGS, Mr. CARPER, Mrs. BOXER, Mrs. CLINTON, Mr. ROCKEFELLER, and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —RAIL SECURITY

SEC. —01. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Rail Security Act of 2004''.

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Sec. —01. Short title; table of contents.
Sec. —02. Rail transportation security risk assessment.
Sec. —03. Rail security.
Sec. —04. Study of foreign rail transport security programs.
Sec. —05. Passenger, baggage, and cargo screening.
Sec. —06. Certain personnel limitations not to apply.
Sec. —07. Fire and life-safety improvements.
Sec. —08. Memorandum of agreement.
Sec. —09. Amtrak plan to assist families of passengers involved in rail passenger accidents.
Sec. —10. Systemwide Amtrak security upgrades.
Sec. —11. Freight and passenger rail security upgrades.
Sec. —12. Oversight and grant procedures.
Sec. —13. Rail security research and development.
Sec. —14. Welded rail and tank car safety improvements.
Sec. —15. Northern Border rail passenger report.
Sec. —16. Report regarding impact on security of train travel in communities without grade separation.
Sec. —17. Whistleblower protection program.
Sec. —18. Effective date.

SEC. —02. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) IN GENERAL.—

(1) VULNERABILITY ASSESSMENT.—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Secretary of Transportation, shall complete a vulnerability assessment of freight and passenger rail transportation (encompassing railroads, as that term is defined in section 20102(1) of title 49, United States Code). The assessment shall include—

(A) identification and evaluation of critical assets and infrastructures;

(B) identification of threats to those assets and infrastructures;

(C) identification of vulnerabilities that are specific to the transportation of hazardous materials via railroad; and

(D) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems, procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment.

(2) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The assessment shall take into account actions taken or planned by both public and private entities to address identified security issues and assess the effective integration of such actions.

(3) RECOMMENDATIONS.—Based on the assessment conducted under paragraph (1), the Under Secretary, in consultation with the

Secretary of Transportation, shall develop prioritized recommendations for improving rail security, including any recommendations the Under Secretary has for—

(A) improving the security of rail tunnels, rail bridges, rail switching and car storage areas, other rail infrastructure and facilities, information systems, and other areas identified by the Under Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;

(B) deploying equipment to detect explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;

(C) training employees in terrorism prevention, passenger evacuation, and response activities;

(D) conducting public outreach campaigns on passenger railroads;

(E) deploying surveillance equipment; and

(F) identifying the immediate and long-term costs of measures that may be required to address those risks.

(4) PLANS.—The report required by subsection (c) shall include—

(A) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the government to provide increased security support at high or severe threat levels of alert; and

(B) a plan for coordinating rail security initiatives undertaken by the public and private sectors.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment required by subsection (a), the Under Secretary of Homeland Security for Border and Transportation Security shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, first responders, shippers of hazardous materials, public safety officials (including those within other agencies and offices within the Department of Homeland Security), and other relevant parties.

(c) REPORT.—

(1) CONTENTS.—Within 180 days after the date of enactment of this Act, the Under Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report containing the assessment and prioritized recommendations required by subsection (a) and an estimate of the cost to implement such recommendations.

(2) FORMAT.—The Under Secretary may submit the report in both classified and redacted formats if the Under Secretary determines that such action is appropriate or necessary.

(d) 2-YEAR UPDATES.—The Under Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations every 2 years and transmit a report, which may be submitted in both classified and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $5,000,000 for fiscal year 2005 for the purpose of carrying out this section.

SEC. —03. RAIL SECURITY.

(a) RAIL POLICE OFFICERS.—Section 28101 of title 49, United States Code, is amended by striking ''the rail carrier'' each place it appears and inserting ''any rail carrier''.

(b) REVIEW OF RAIL REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Under Secretary of Homeland Security for Border and Transportation Security, shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail security.

SEC. —04. STUDY OF FOREIGN RAIL TRANSPORT SECURITY PROGRAMS.

(a) REQUIREMENT FOR STUDY.—Within one year after the date of enactment of the Rail Security Act of 2004, the Comptroller General shall complete a study of the rail passenger transportation security programs that are carried out for rail transportation systems in Japan, member nations of the European Union, and other foreign countries.

(b) PURPOSE.—The purpose of the study shall be to identify effective rail transportation security measures that are in use in foreign rail transportation systems, including innovative measures and screening procedures determined effective.

(c) REPORT.—The Comptroller General shall submit a report on the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The report shall include the Comptroller General's assessment regarding whether it is feasible to implement within the United States any of the same or similar security measures that are determined effective under the study.

SEC. —05. PASSENGER, BAGGAGE, AND CARGO SCREENING.

(a) REQUIREMENT FOR STUDY AND REPORT.—The Under Secretary of Homeland Security for Border and Transportation Security, in cooperation with the Secretary of Transportation, shall—

(1) analyze the cost and feasibility of requiring security screening for passengers, baggage, and cargo on passenger trains; and

(2) report the results of the study, together with any recommendations that the Under Secretary may have for implementing a rail security screening program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

(b) PILOT PROGRAM.—As part of the study under subsection (a), the Under Secretary shall complete a pilot program of random security screening of passengers and baggage at 5 passenger rail stations served by Amtrak selected by the Under Secretary. In conducting the pilot program, the Under Secretary shall—

(1) test a wide range of explosives detection technologies, devices and methods;

(2) require that intercity rail passengers produce government-issued photographic identification which matches the name on the passenger's tickets prior to boarding trains; and

(3) attempt to give preference to locations at the highest risk of terrorist attack and achieve a distribution of participating train stations in terms of geographic location, size, passenger volume, and whether the station is used by commuter rail passengers as well as Amtrak passengers.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security to carry out this section $5,000,000 for fiscal year 2005.

SEC. —06. CERTAIN PERSONNEL LIMITATIONS NOT TO APPLY.

Any statutory limitation on the number of employees in the Transportation Security Administration of the Department of Transportation, before or after its transfer to the Department of Homeland Security, does not apply to the extent that any such employees are responsible for implementing the provisions of this title.

SEC. —07. FIRE AND LIFE-SAFETY IMPROVEMENTS.

(a) LIFE-SAFETY NEEDS.—The Secretary of Transportation is authorized to make grants to Amtrak for the purpose of making fire and life-safety improvements to Amtrak tunnels on the Northeast Corridor in New York, NY, Baltimore, MD, and Washington, DC.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts:

(1) For the 6 New York tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—

(A) $100,000,000 for fiscal year 2005;
(B) $100,000,000 for fiscal year 2006;
(C) $100,000,000 for fiscal year 2007;
(D) $100,000,000 for fiscal year 2008; and
(E) $170,000,000 for fiscal year 2009.

(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

(A) $10,000,000 for fiscal year 2005;
(B) $10,000,000 for fiscal year 2006;
(C) $10,000,000 for fiscal year 2007;
(D) $10,000,000 for fiscal year 2008; and
(E) $17,000,000 for fiscal year 2009.

(3) For the Washington, DC Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

(A) $8,000,000 for fiscal year 2005;
(B) $8,000,000 for fiscal year 2006;
(C) $8,000,000 for fiscal year 2007;
(D) $8,000,000 for fiscal year 2008; and
(E) $8,000,000 for fiscal year 2009.

(c) INFRASTRUCTURE UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for fiscal year 2005 $3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

(e) PLANS REQUIRED.—The Secretary may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—

(1) until Amtrak has submitted to the Secretary, and the Secretary has approved, an engineering and financial plan for such projects; and

(2) unless, for each project funded pursuant to this section, the Secretary has approved a project management plan prepared by Amtrak addressing appropriate project budget, construction schedule, recipient staff organization, document control and record keeping, change order procedure, quality control and assurance, periodic plan updates, periodic status reports, and such other matters the Secretary deems appropriate.

(f) REVIEW OF PLANS.—The Secretary of Transportation shall complete the review of the plans required by paragraphs (1) and (2) of subsection (e) and approve or disapprove the plans within 45 days after the date on which each such plan is submitted by Amtrak. If the Secretary determines that a plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30

days after receiving the Secretary's notification, submit a modified plan for the Secretary's review. Within 15 days after receiving additional information on items previously included in the plan, and within 45 days after receiving items newly included in a modified plan, the Secretary shall either approve the modified plan, or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the portions of the plan the Secretary finds incomplete or deficient, approve all other portions of the plan, obligate the funds associated with those other portions, and execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

(g) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers at levels reflecting the extent of their use of the tunnels, if feasible.

SEC. —08. MEMORANDUM OF AGREEMENT.

(a) MEMORANDUM OF AGREEMENT.—Within 60 days after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall execute a memorandum of agreement governing the roles and responsibilities of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

(b) RAIL SAFETY REGULATIONS.—Section 20103(a) of title 49, United States Code, is amended by striking ''safety'' the first place it appears, and inserting ''safety, including security,''.

SEC. —09. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

''§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents

''(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Rail Security Act of 2004, Amtrak shall submit to the Chairman of the National Transportation Safety Board and the Secretary of Transportation a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.

''(b) CONTENTS OF PLANS.—The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:

''(1) A process by which Amtrak will maintain and provide to the National Transportation Safety Board and the Secretary of Transportation, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

''(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

''(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

''(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

''(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control; that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.

''(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

''(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

''(c) USE OF INFORMATION.—The National Transportation Safety Board, the Secretary of Transportation, and Amtrak may not release to any person information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.

''(d) LIMITATION ON LIABILITY.—Amtrak shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of Amtrak in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by Amtrak under subsection (b), unless such liability was caused by Amtrak's conduct.

''(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that Amtrak may take, or the obligations that Amtrak may have, in providing assistance to the families of passengers involved in a rail passenger accident.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak $500,000 for fiscal year 2005 to carry out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

''Sec.
''24316. Plan to assist families of passengers involved in rail passenger accidents''.

SEC. —10. SYSTEMWIDE AMTRAK SECURITY UPGRADES.

(a) IN GENERAL—Subject to subsection (c), the Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants, through the Secretary of Transportation, to Amtrak—

(1) to secure major tunnel access points and ensure tunnel integrity in New York, Baltimore, and Washington, DC;

(2) to secure Amtrak trains;

(3) to secure Amtrak stations;

(4) to obtain a watch list identification system approved by the Under Secretary;

(5) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(6) to hire additional police and security officers, including canine units; and

(7) to expand emergency preparedness efforts.

(b) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless the projects are contained in a systemwide security plan approved by the Under Secretary, in consultation with the Secretary of Transportation, and, for capital projects, meet the requirements of section —07(e)(2). The plan shall include appropriate measures to address security awareness, emergency response, and passenger evacuation training.

(c) EQUITABLE GEOGRAPHIC ALLOCATION.—The Under Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(d) AVAILABILITY OF FUNDS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $63,500,000 for fiscal year 2005 for the purposes of carrying out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. —11. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.

(a) SECURITY IMPROVEMENT GRANTS.—The Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants to freight railroads, the Alaska Railroad, hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, universities, colleges and research centers, State and local governments (for passenger facilities and infrastructure not owned by Amtrak), and, through the Secretary of Transportation, to Amtrak, for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security threats, including—

(1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations;

(2) accommodation of cargo or passenger screening equipment at the United States-Mexico border or the United States-Canada border;

(3) the security of hazardous material transportation by rail;

(4) secure intercity passenger rail stations, trains, and infrastructure;

(5) structural modification or replacement of rail cars transporting high hazard materials to improve their resistance to acts of terrorism;

(6) employee security awareness, preparedness, passenger evacuation, and emergency response training;

(7) public security awareness campaigns for passenger train operations;

(8) the sharing of intelligence and information about security threats;

(9) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(10) to hire additional police and security officers, including canine units; and

(11) other improvements recommended by the report required by section —02, including infrastructure, facilities, and equipment upgrades.

(b) ACCOUNTABILITY.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Under Secretary.

(c) EQUITABLE ALLOCATION.—The Under Secretary shall equitably distribute the funds authorized by this section, taking into account geographic location, and shall encourage non-Federal financial participation in awarding grants. With respect to grants for passenger rail security, the Under Secretary shall also take into account passenger volume and whether a station is used by commuter rail passengers as well as intercity rail passengers.

(d) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless Amtrak meets the conditions set forth in section —10(b) of this title.

(e) ALLOCATION BETWEEN RAILROADS AND OTHERS.—Unless as a result of the assessment required by section —02 the Under Secretary of Homeland Security for Border and Transportation Security determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made—

(1) in excess of $65,000,000 to Amtrak; or

(2) in excess of $100,000,000 for the purposes described in paragraphs (3) and (5) of subsection (a).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $350,000,000 for fiscal year 2005 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

(g) HIGH HAZARD MATERIALS DEFINED.—In this section, the term ''high hazard materials'' means poison inhalation hazard materials, Class 2.3 gases, Class 6.1 materials, and anhydrous ammonia.

SEC. —12. OVERSIGHT AND GRANT PROCEDURES.

(a) SECRETARIAL OVERSIGHT.—The Secretary of Transportation may use up to 0.5 percent of amounts made available to Amtrak for capital projects under the Rail Security Act of 2004 to enter into contracts for the review of proposed capital projects and related program management plans and to oversee construction of such projects.

(b) USE OF FUNDS.—The Secretary may use amounts available under subsection (a) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under subsection (a).

(c) PROCEDURES FOR GRANT AWARD.—The Under Secretary shall prescribe procedures and schedules for the awarding of grants under this title, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Under Secretary. The Under Secretary shall issue a final rule establishing the procedures not later than 90 days after the date of enactment of this Act.

SEC. —13. RAIL SECURITY RESEARCH AND DEVELOPMENT.

(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Under Secretary of Homeland Security for Border and Transportation Security, in conjunction with the Secretary of Transportation, shall carry out a research and development program for the purpose of improving freight and intercity passenger rail security that may include research and development projects to—

(1) reduce the vulnerability of passenger trains, stations, and equipment to explosives and hazardous chemical, biological, and radioactive substances;

(2) test new emergency response techniques and technologies;

(3) develop improved freight technologies, including—

(A) technologies for sealing rail cars;

(B) automatic inspection of rail cars;

(C) communication-based train controls; and

(D) emergency response training;

(4) test wayside detectors that can detect tampering with railroad equipment; and

(5) support enhanced security for the transportation of hazardous materials by rail, including—

(A) technologies to detect a breach in a tank car and transmit information about the integrity of tank cars to the train crew;

(B) research to improve tank car integrity, with a focus on tank cars that carry high hazard materials (as defined in section —11(g) of this title;

(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety;

(6) other projects recommended in the report required by section —02.

(b) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Under Secretary of Homeland Security for Border and Transportation Security shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department and the Department of Transportation. The Under Secretary of Homeland Security for Border and Transportation Security shall carry out any research and development project authorized by this section through a reimbursable agreement with the Secretary of Transportation if the Secretary of Transportation—

(1) is already sponsoring a research and development project in a similar area; or

(2) has a unique facility or capability the would be useful in carrying out the project.

(c) ACCOUNTABILITY.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Under Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $50,000,000 in each of fiscal years 2005 and 2006 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. —14. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENTS.

(a) TRACK STANDARDS.—Within 90 days after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) require each track owner using continuous welded rail track to include procedures (in its procedures filed with the Administration pursuant to section 213.119 of title 49, Code of Federal Regulations) to improve the identification of cracks in rail joint bars;

(2) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the inspectors' areas of responsibility and require that inspectors use those programs when conducting track inspections; and

(3) establish a program to periodically review continuous welded rail joint bar inspection data from railroads and Administration track inspectors and, whenever the Administration determines that it is necessary or appropriate, require railroads to increase the frequency or improve the methods of inspection of joint bars in continuous welded rail.

(b) TANK CAR STANDARDS.—The Federal Railroad Administration shall—

(1) within 1 year after the date of enactment of this Act, validate the predictive model it is developing to quantify the relevant dynamic forces acting on railroad tank cars under accident conditions; and

(2) within 18 months after the date of enactment of this Act, initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars.

(c) OLDER TANK CAR IMPACT RESISTANCE ANALYSIS AND REPORT.—Within 2 years after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989; and

(2) transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure with recommendations for measures to eliminate or mitigate the risk of catastrophic failure.

SEC. —15. NORTHERN BORDER RAIL PASSENGER REPORT.

Within 180 days after the date of enactment of this Act, the Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the heads of other appropriate Federal departments and agencies and the National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that contains—

(1) a description of the current system for screening passengers and baggage on passenger rail service between the United States and Canada;

(2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in ''The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America'', dated January 18, 2001;

(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the ''Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States'', dated April 2, 2003;

(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;

(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing prescreened passenger lists for rail passengers travelling between the United States and Canada to the Department of Homeland Security;

(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers; and

(7) a draft of any changes in existing Federal law necessary to provide for pre-screening of such passengers and providing prescreened passenger lists to the Department of Homeland Security.

SEC. —16. REPORT REGARDING IMPACT ON SECURITY OF TRAIN TRAVEL IN COMMUNITIES WITHOUT GRADE SEPARATION.

(a) STUDY.—The Secretary of Homeland Security shall, in consultation with State and local government officials, conduct a study on the impact of blocked highway-railroad grade crossings on the ability of emergency responders, including ambulances and police, fire, and other emergency vehicles, to perform public safety and security duties in the event of a terrorist attack.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the findings of the study conducted under subsection (a) and recommendations for reducing the impact of blocked crossings on emergency response.

SEC. —17. WHISTLEBLOWER PROTECTION PROGRAM.

(a) IN GENERAL.—Subchapter A of chapter 201 of title 49, United States Code, is amended by inserting after section 20115 the following:

"§ 20116. Whistleblower protection for rail security matters

''(a) DISCRIMINATION AGAINST EMPLOYEE.—No rail carrier engaged interstate or foreign commerce may discharge a railroad employee or otherwise discriminate against a railroad employee because the employee (or any person acting pursuant to a request of the employee)—

(1) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to a perceived threat to security; or

''(2) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding a perceived threat to security; or

''(3) refused to violate or assist in the violation of any law, rule or regulation related to rail security.

''(b) DISPUTE RESOLUTION.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved not later than 180 days after it is filed. If the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this subsection, the Board, division, delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than $20,000.

''(c) PROCEDURAL REQUIREMENTS.—Except as provided in subsection (b), the procedure set forth in section 42121(b)(2)(B) of this title, including the burdens of proof, applies to any complaint brought under this section.

''(d) ELECTION OF REMEDIES.—An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier.

''(e) DISCLOSURE OF IDENTITY.—

''(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section.

''(2) The Secretary shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 of title 49, United States Code, is amended by inserting after the item relating to section 20115 the following:

''20116. Whistleblower protection for rail security matters''.

SEC. —18. EFFECTIVE DATE.

This title takes effect on the date of enactment of this Act.

SA 3864. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

Section 145(c) of the Aviation and Transportation Security Act (49 U.S.C. 40101 note) is amended by striking ''more than'' and all that follows through ''after'' and inserting ''more than 48 months after''.

SA 3865. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 77, insert between lines 18 and 19, the following:

(j) SENSE OF CONGRESS RELATING TO ADOPTION OF STANDARDS OF REVIEW.—It is the sense of Congress that the Inspector General of the National Intelligence Authority, in consultation with other inspectors general in the intelligence community and the President's Council on Integrity and Efficiency, should adopt standards for review and related precedent that is generally used by the intelligence community for reviewing whistleblower reprisal complaints made under this section.

SA 3866. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—RACIAL PROFILING

SEC. ___01. DEFINITIONS.

As used in this section:

(1) RACIAL PROFILING.—The term ''racial profiling'' means the practice of a law enforcement agent relying, to any degree, on race, ethnicity, religion, or national origin in selecting which individuals to subject to routine or spontaneous investigatory activities, or in deciding upon the scope and substance of law enforcement activity following the initial investigatory procedure, except when there is trustworthy information, relevant to the locality and timeframe, that links persons of a particular race, ethnicity, religion, or national origin to an identified criminal incident or scheme.

(2) ROUTINE OR SPONTANEOUS INVESTIGATORY ACTIVITIES.—The term ''routine or spontaneous investigatory activities'' means the following activities by law enforcement agents:

(A) Interviews.

(B) Traffic stops.

(C) Pedestrian stops.

(D) Frisks and other types of body searches.

(E) Consensual or nonconsensual searches of the persons or possessions (including vehicles) of motorists or pedestrians.

(F) Inspections and interviews of entrants into the United States that are more extensive than those customarily carried out.

(G) Immigration related workplace investigations.

(H) Other types of law enforcement encounters compiled by the Federal Bureau of Investigations or the Bureau of Justice Statistics.

SEC. ___2. POLICIES TO ELIMINATE RACIAL PROFILING BY FEDERAL LAW ENFORCEMENT.

(a) IN GENERAL.—Federal law enforcement agencies shall—

(1) maintain adequate policies and procedures designed to eliminate racial profiling; and

(2) cease existing practices that encourage racial profiling.

(b) POLICIES AND PROCEDURES.—The policies and procedures maintained under subsection (a)(1) shall include—

(1) a prohibition on racial profiling;

(2) independent procedures for receiving, investigating, and responding meaningfully to complaints alleging racial profiling by law enforcement agents of the agency;

(3) procedures to discipline law enforcement agents who engage in racial profiling; and

(4) such other policies or procedures that the Attorney General, in consultation with the Secretary of Homeland Security, determines necessary to eliminate racial profiling.

(c) INTENT.—Nothing in this title is intended to impede the ability of Federal law enforcement to protect the country and its people from any threat, be it foreign or domestic.

SEC. ___03. REPORTS ON RACIAL PROFILING IN THE UNITED STATES.

(a) ANNUAL REPORT.—Not later than 2 years after the date of enactment of this Act, and each year thereafter, the Attorney General, in consultation with the Secretary of Homeland Security, shall submit to Congress a report on efforts to combat racial profiling in the United States.

(b) CONTENTS.—Each report under subsection (a) shall include, for the 1-year period ending on the date of such report—

(1) the status of the adoption and implementation of policies and procedures by Federal law enforcement agencies pursuant to section ___02; and

(2) a description of any other policies and procedures that the Attorney General, in consultation with the Secretary of Homeland Security, believes would facilitate the elimination of racial profiling, including best practices utilized by Federal, State, or local law enforcement agencies.

SA 3867. Mr. LEVIN (for himself and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. TERRORISM FINANCING.

(a) REPORT ON TERRORIST FINANCING.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President, acting through the Secretary of the Treasury, shall submit to Congress a report evaluating the current state of United States efforts to curtail the international financing of terrorism.

(2) CONTENTS.—The report required by paragraph (1) shall evaluate and make recommendations on—

(A) the effectiveness and efficiency of current United States governmental efforts and methods to detect, track, disrupt, and stop terrorist financing;

(B) the relationship between terrorist financing and money laundering, including how the laundering of proceeds related to illegal narcotics or foreign political corruption may contribute to terrorism or terrorist financing;

(C) the nature, effectiveness, and efficiency of current efforts to coordinate intelligence and agency operations within the United States Government to detect, track, disrupt, and stop terrorist financing, including identifying who, if anyone, has primary responsibility for developing priorities, assigning tasks to agencies, and monitoring the implementation of policy and operations; and

(D) ways to improve the setting of priorities and coordination of United States efforts to detect, track, disrupt, and stop terrorist financing, including recommendations for changes in executive branch organization or procedures, legislative reforms, or use of appropriated funds.

(b) POSTEMPLOYMENT RESTRICTION FOR CERTAIN BANK AND THRIFT EXAMINERS.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following:

''(k) ONE-YEAR RESTRICTIONS ON FEDERAL EXAMINERS OF FINANCIAL INSTITUTIONS.—

''(1) IN GENERAL.—In addition to other applicable restrictions set forth in title 18, United States Code, the penalties set forth in paragraph (6) of this subsection shall apply to any person who—

''(A) was an officer or employee (including any special Government employee) of a Federal banking agency or a Federal reserve bank;

''(B) served 2 or more months during the final 12 months of his or her employment with such agency or entity as the senior examiner (or a functionally equivalent position) of a depository institution or depository institution holding company with continuing, broad responsibility for the examination (or inspection) and supervision of that depository institution or depository institution holding company on behalf of the relevant agency or Federal reserve bank; and

''(C) within 1 year after the termination date of his or her service or employment with such agency or entity, knowingly accepts compensation as an employee, officer, director, or consultant from—

''(i) such depository institution, any depository institution holding company that controls such depository institution, or any other company that controls such depository institution; or

''(ii) such depository institution holding company or any depository institution that is controlled by such depository institution holding company.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'depository institution' includes an uninsured branch or agency of a foreign bank, if such branch or agency is located in any State; and

''(B) the term 'depository institution holding company' includes any foreign bank or company described in section 8(a) of the International Banking Act of 1978.

''(3) RULES OF CONSTRUCTION.—For purposes of this subsection, a foreign bank shall be deemed to control any branch or agency of the foreign bank, and a person shall be deemed to act as a consultant for a depository institution, depository institution holding company, or other company, only if such person directly works on matters for, or on behalf of, such depository institution, depository institution holding company, or other company.

''(4) REGULATIONS.—

''(A) IN GENERAL.—Each Federal banking agency shall prescribe rules or regulations to administer and carry out this subsection, including rules, regulations, or guidelines to define the scope of persons referred to in paragraph (1)(B).

''(B) CONSULTATION REQUIRED.—The Federal banking agencies shall consult with each other for the purpose of assuring that the rules and regulations issued by the agencies under subparagraph (A) are, to the extent possible, consistent and comparable and practicable, taking into account any differences in the supervisory programs utilized by the agencies for the supervision of depository institutions and depository institution holding companies.

''(5) WAIVER.—

''(A) AGENCY AUTHORITY.—A Federal banking agency may grant a waiver, on a case by case basis, of the restriction imposed by this subsection to any officer or employee (including any special Government employee) of that agency, and the Board of Governors of the Federal Reserve System may grant a waiver of the restriction imposed by this subsection to any officer or employee of a Federal reserve bank, if the head of such agency certifies in writing that granting the waiver would not affect the integrity of the supervisory program of the relevant Federal banking agency.

''(B) DEFINITION.—For purposes of this paragraph, the head of an agency is—

''(i) the Comptroller of the Currency, in the case of the Office of the Comptroller of the Currency;

''(ii) the Chairman of the Board of Governors of the Federal Reserve System, in the case of the Board of Governors of the Federal Reserve System;

''(iii) the Chairperson of the Board of Directors, in the case of the Corporation; and

''(iv) the Director of the Office of Thrift Supervision, in the case of the Office of Thrift Supervision.

''(6) PENALTIES.—

''(A) VIOLATORS SUBJECT TO INDUSTRY-WIDE PROHIBITION ORDER.—In addition to any other penalty that may apply, whenever a Federal banking agency determines that a person subject to paragraph (1) has violated paragraph (1) by becoming associated, in the manner described in paragraph (1)(C), with a depository institution, depository institution holding company, or other company for which such agency serves as the appropriate Federal banking agency, the agency shall serve a written notice or order, in accordance with and subject to the provisions of section 8(e)(4) for written notices or orders under paragraphs (1) or (2) of section 8(e), upon such person of the intention of the agency—

''(i) to remove such person from office or to prohibit such person from further participation in the conduct of the affairs of the depository institution, depository institution holding company, or other company for a period of up to 5 years; and

''(ii) to prohibit any further participation by such person, in any manner, in the conduct of the affairs of any insured depository institution for a period of up to 5 years.

''(B) SCOPE OF PROHIBITION ORDER.—Any person subject to an order issued under this subsection shall be subject to paragraphs (6) and (7) of section 8(e) in the same manner and to the same extent as a person subject to an order issued under such section.

''(C) ADDITIONAL CRIMINAL AND CIVIL PENALTIES.—In addition to the civil penalties provided for in this paragraph, any person who violates this subsection shall be punished as provided in section 216 of title 18, United States Code.

''(D) DEFINITIONS.—Solely for purposes of this paragraph, the 'appropriate Federal banking agency' for a company that is not a depository institution or depository institution holding company shall be the Federal banking agency on whose behalf the person described in paragraph (1) performed the functions described in paragraph (1)(B).''.

(c) POSTEMPLOYMENT RESTRICTION FOR CERTAIN CREDIT UNION EXAMINERS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following:

''(w) ONE-YEAR RESTRICTIONS ON FEDERAL EXAMINERS OF INSURED CREDIT UNIONS.—

''(1) IN GENERAL.—In addition to other applicable restrictions set forth in title 18, United States Code, the penalties set forth in paragraph (5) of this subsection shall apply to any person who—

''(A) was an officer or employee (including any special Government employee) of the Administration;

''(B) served 2 or more months during the final 12 months of his or her employment with the Administration as the senior examiner (or a functionally equivalent position) of an insured credit union with continuing, broad responsibility for the examination (or inspection) and supervision of that insured credit union on behalf of the Administration; and

''(C) within 1 year after the termination date of his or her service or employment with the Administration, knowingly accepts compensation as an employee, officer, director, or consultant from such insured credit union.

''(2) RULE OF CONSTRUCTION.—For purposes of this subsection, a person shall be deemed to act as a consultant for an insured credit union only if such person directly works on matters for, or on behalf of, such insured credit union.

''(3) REGULATIONS.—

''(A) IN GENERAL.—The Board shall prescribe rules or regulations to administer and carry out this subsection, including rules, regulations, or guidelines to define the scope of persons referred to in paragraph (1)(B).

''(B) CONSULTATION.—In prescribing rules or regulations under this paragraph, the Board shall, to the extent it deems necessary, consult with the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) on regulations issued by such agencies in carrying out section 10(k) of the Federal Deposit Insurance Act.

''(4) WAIVER.—

''(A) AGENCY AUTHORITY.—The Board may grant a waiver, on a case by case basis, of the restriction imposed by this subsection to any officer or employee (including any special Government employee) of the Administration if the Chairman certifies in writing that granting the waiver would not affect the integrity of the supervisory program of the Administration.

''(5) PENALTIES.—

''(A) VIOLATORS SUBJECT TO INDUSTRY-WIDE PROHIBITION ORDER.—In addition to any other penalty that may apply, whenever the Board

determines that a person subject to paragraph (1) has violated paragraph (1) by becoming associated, in the manner described in paragraph (1)(C), with an insured credit union, the Board shall serve written notice, in accordance with and subject to the provisions of subsection (g)(4) for written notices under paragraphs (1) or (2) of subsection (g), upon such person of the intention of the Board—

''(i) to remove such person from office or to prohibit such person from further participation in the conduct of the affairs of the insured credit union for a period of up to 5 years; and

''(ii) to prohibit any further participation by such person, in any manner, in the conduct of the affairs of any insured credit union for a period of up to 5 years.

''(B) SCOPE OF PROHIBITION ORDER.—Any person subject to an order issued under this subsection shall be subject to paragraphs (5) and (7) of subsection (g) in the same manner and to the same extent as a person subject to an order issued under subsection (g).

''(C) ADDITIONAL CRIMINAL AND CIVIL PENALTIES.—In addition to the civil penalties provided for in this paragraph, any person who violates this subsection shall be punished as provided in section 216 of title 18, United States Code.''.

(d) EFFECTIVE DATE.—Notwithstanding section 341, subsection (a) shall become effective on the date of enactment of this Act, and the amendments made by subsections (b) and (c) shall become effective at the end of the 12-month period beginning on the date of enactment of this Act, whether or not final regulations are issued in accordance with the amendments made by this section as of that date of enactment.

SA 3868. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 52, strike line 21 and all that follows through page 56, line 8.

Beginning on page 60, strike line 5 and all that follows though page 81, line 14.

Beginning on page 153, strike line 5 and all that follows through page 170, line 8 and insert the following:

SEC. 211. BOARD ON SAFEGUARDING AMERICANS' CIVIL LIBERTIES.

(a) POLICY.—The United States Government has a solemn obligation, and shall continue fully, to protect the legal rights of all Americans, including freedoms, civil liberties, and information privacy guaranteed by Federal law, in the effective performance of national security and homeland security functions.

(b) ESTABLISHMENT OF BOARD.—To advance the policy set out in subsection (a), there is established the President's Board on Safeguarding Americans' Civil Liberties (hereinafter referred to as the ''Board''). The Board shall be part of the Department of Justice for administrative purposes.

(c)FUNCTIONS.—The Board shall—

(1) advise the President on effective means to implement the policy set out in subsection (a);

(2) keep the President informed of the implementation of such policy;

(3) periodically request reports from Federal departments and agencies relating to policies and procedures that ensure implementation of the policy set out in subsection (a);

(4) recommend to the President policies, guidelines, and other administrative actions, technologies, and legislation, as necessary to implement the such policy;

(5) at the request of the head of any Federal department or agency, unless the Chair of the Board, after consultation with the Vice Chair, declines the request, promptly review and provide advice on a policy or action of that department or agency that implicates the policy set out in subsection (a);

(6) obtain information and advice relating to such policy from representatives of entities or individuals outside the executive branch of the Federal Government in a manner that seeks their individual advice and does not involve collective judgment or consensus advice or deliberation;

(7) refer, consistent with section 535 of title 28, United States Code, credible information pertaining to possible violations of law relating to the Policy by any Federal employee or official to the appropriate office for prompt investigation;

(8) take steps to enhance cooperation and coordination among Federal departments and agencies in the implementation of the Policy, including but not limited to working with the Director of the Office of Management and Budget and other officers of the United States to review and assist in the coordination of guidelines and policies concerning national security and homeland security efforts, such as information collection and sharing; and

(9) undertake other efforts to protect the legal rights of all Americans, including freedoms, civil liberties, and information privacy guaranteed by Federal law, as the President may direct;

(d) ADVISORY COMMITTEES.—Upon the recommendation of the Board, the Attorney General or the Secretary of Homeland Security may establish one or more committees that include individuals from outside the executive branch of the Federal Government, in accordance with applicable law, to advise the Board on specific issues relating to the policy set out in subsection (a). Any such committee shall carry out its functions separately from the Board.

(e) MEMBERSHIP AND OPERATION.—The Board shall consist exclusively of the following:

(1) the Deputy Attorney General, who shall serve as Chair;

(2) the Under Secretary for Border and Transportation Security, Department of Homeland Security, who shall serve as Vice Chair;

(3) the Assistant Attorney General, Civil Rights Division;

(4) the Assistant Attorney General, Office of Legal Policy;

(5) the Counsel for Intelligence Policy, Department of Justice;

(6) the Chair of the Privacy Council, Federal Bureau of Investigation;

(7) the Assistant Secretary for Information Analysis, Department of Homeland Security;

(8) the Assistant Secretary, Policy, Directorate of Border and Transportation Security, Department of Homeland Security;

(9) the Officer for Civil Rights and Civil Liberties, Department of Homeland Security;

(10) the Privacy Officer, Department of Homeland Security;

(11) the Under Secretary for Enforcement, Department of the Treasury;

(12) the Assistant Secretary (Terrorist Financing), Department of the Treasury;

(13) the General Counsel, Office of Management and Budget;

(14) the Deputy Director of Central Intelligence for Community Management;

(15) the General Counsel, Central Intelligence Agency;

(16) the General Counsel, National Security Agency;

(17) the Under Secretary of Defense for Intelligence;

(18) the General Counsel of the Department of Defense;

(19) the Legal Adviser, Department of State;

(20) the Director, Terrorist Threat Integration Center; and

(21) such other officers of the United States as the Deputy Attorney General may from time to time designate.

(f) DELEGATION.—A member of the Board may designate, to perform the Board or Board subgroup functions of the member, any person who is part of such member's department or agency and who is either an officer of the United States appointed by the President, or a member of the Senior Executive Service or the Senior Intelligence Service.

(g) ADMINISTRATIVE MATTERS.—The Chair, after consultation with the Vice Chair, shall convene and preside at meetings of the Board, determine its agenda, direct its work, and, as appropriate to deal with particular subject matters, establish and direct subgroups of the Board that shall consist exclusively of members of the Board. The Chair may invite, in his discretion, officers or employees of other departments or agencies to participate in the work of the Board. The Chair shall convene the first meeting of the Board within 20 days after the date of the enactment of this Act and shall thereafter convene meetings of the Board at such times as the Chair, after consultation with the Vice Chair, deems appropriate. The Deputy Attorney General shall designate an official of the Department of Justice to serve as the Executive Director of the Board.

(h) COOPERATION.—To the extent permitted by law, all Federal departments and agencies shall cooperate with the Board and provide the Board with such information, support, and assistance as the Board, through the Chair, may request.

(i) ADMINISTRATION.— Consistent with applicable law and subject to the availability of appropriations, the Department of Justice shall provide the funding and administrative support for the Board necessary to implement this section.

(j) GENERAL PROVISIONS.—

(1) RELATIONSHIP TO OTHER AUTHORITY.—The provisions of this section shall not be construed to impair or otherwise affect the authorities of any department, agency, instrumentality, officer, or employee of the United States under applicable law, including the functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(2) RELATIONSHIP TO OTHER LAWS.—The provisions of this section shall be implemented in a manner consistent with applicable laws and Executive Orders concerning protection of information, including those for the protection of intelligence sources and methods, law enforcement information, and classified national security information, and the Privacy Act of 1974 (5 U.S.C. 552a).

(3) INTERNAL MANAGEMENT.—The provisions of this section are intended only to improve the internal management of the Federal Government and is not intended to, and do not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by a party against the United States, or any of its departments, agencies, instrumentalities, entities, officers, employees, or agents, or any other person.

SA 3869. Mr. SESSIONS submitted an amendment intended to be proposed by

him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 52, strike line 21 and all that follows through page 56, line 8.

Beginning on page 60, strike line 5 and all that follows though page 81, line 14.

Beginning on page 153, strike line 3 and all that follows through page 170, line 8.

SA 3870. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PERMANENT INFORMATION SHARING.

Section 224 of the USA PATRIOT ACT (Public Law 107–56) is amended by—

(1) striking ''203(a), 203(c)'' and inserting ''203''; and

(2) inserting ''218,'' after ''216,''.

SA 3871. Mr. SESSIONS (for himself, Mr. CORNYN, Mr. MILLER, and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 213, after line 12, add the following:

TITLE IV—IMMIGRATION ENFORCEMENT

SEC. 401. FEDERAL AFFIRMATION OF STATE AND LOCAL ASSISTANCE IN ENFORCEMENT OF FEDERAL IMMIGRATION LAWS.

(a) IN GENERAL.—Notwithstanding any other provision of law and reaffirming the existing inherent authority of States, law enforcement personnel of a State or a political subdivision of a State have the inherent authority of a sovereign entity to investigate, apprehend, arrest, detain, or transfer to Federal custody aliens in the United States (including the transportation of such aliens across State lines to detention centers), in the course of carrying out their routine duties for the purpose of assisting in the enforcement of the immigration laws of the United States.

(b) CONSTRUCTION.—Nothing in this section shall be construed to require law enforcement officers of a State or political subdivision of a State to—

(1) report the identity of victims of, or witnesses to, a criminal offense to the Secretary of Homeland Security; or

(2) arrest such victims or witnesses for immigration violations.

SEC. 402. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) PROVISION OF INFORMATION TO NCIC.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and continually thereafter, the Under Secretary for Border and Transportation Security of the Department of Homeland Security shall provide the National Crime Information Center of the Department of Justice with such information as the Under Secretary may have on—

(A) all aliens against whom a final order of removal has been issued;

(B) all aliens who have signed a voluntary departure agreement; and

(C) all aliens whose visas have been revoked.

(2) CIRCUMSTANCES.—The information described in paragraph (1) shall be provided to the National Crime Information Center regardless of whether—

(A) the alien received notice of a final order of removal; or

(B) the alien has already been removed.

(b) INCLUSION OF INFORMATION IN NCIC DATABASE.—Section 534(a) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following:

''(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States; and''.

(c) PERMISSION TO DEPART VOLUNTARILY.—Section 240B(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1229c(a)(2)(A)) is amended by striking ''120'' and inserting ''30''.

SEC. 403. FEDERAL CUSTODY OF ILLEGAL ALIENS APPREHENDED BY STATE OR LOCAL LAW ENFORCEMENT.

(a) IN GENERAL.—Section 241 of the Immigration and Nationality Act (8 U.S.C. 1231) is amended by adding at the end the following:

''(j) CUSTODY OF ILLEGAL ALIENS.—

''(1) IN GENERAL.—If the chief executive officer of a State or, if appropriate, a political subdivision of the State, exercising authority with respect to the apprehension of an illegal alien submits a request to the Secretary of Homeland Security that the alien be taken into Federal custody, the Secretary of Homeland Security—

''(A) shall—

''(i) not later than 48 hours after the conclusion of the State charging process or dismissal process, or if no State charging or dismissal process is required, not later than 48 hours after the illegal alien is apprehended, take the illegal alien into the custody of the Federal Government and incarcerate the alien; or

''(ii) request that the relevant State or local law enforcement agency temporarily incarcerate or transport the illegal alien for transfer to Federal custody; and

''(B) shall designate at least 1 Federal, State, or local prison or jail, or a private contracted prison or detention facility, within each State as the central facility for that State to transfer custody of the criminal or illegal alien to the Secretary of Homeland Security.

''(2) REIMBURSEMENT.—

''(A) IN GENERAL.—The Department of Homeland Security shall reimburse States and political subdivisions for all reasonable expenses, as determined by the Secretary of Homeland Security, incurred by a State or political subdivision in the incarceration and transportation of an illegal alien as described in subparagraphs (A) and (B) of paragraph (1).

''(B) COST COMPUTATION.—Compensation provided for costs incurred under subparagraphs (A) and (B) of paragraph (1) shall be the sum of—

''(i)(I) the average cost of incarceration of a prisoner per day in the relevant State, as determined by the chief executive officer of a State, or, as appropriate, a political subdivision of the State; multiplied by

''(II) the number of days that the alien was in the custody of the State or political subdivision; and

''(ii) the cost of transporting the criminal or illegal alien—

''(I) from the point of apprehension to the place of detention; and

''(II) if the place of detention and place of custody are different, to the custody transfer point.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out paragraph (2).''.

SA 3872. Mr. SESSIONS (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. BIOMETRIC STANDARDS FOR PASSPORTS.

(a) FINDINGS.—Congress finds the following:

(1) The 9/11 Commission Report made clear that the incapacity to establish the authenticity of United States passports through a biometric identifier is a major gap in homeland security when it stated, ''Americans should not be exempt from carrying biometric passports or otherwise enabling their identities to be securely verified when they enter the United States; nor should Canadians or Mexicans''.

(2) The Enhanced Border Security and Visa Entry Reform Act of 2002 requires Visa Waiver Program countries to conform to a biometric standard negotiated through the International Civil Aviation Organization, rather than requiring a specific type of biometric identifier. The standard agreed upon by the international community is facial recognition, consisting of a picture with a computer chip embedded in the passport to verify the picture.

(3) Facial recognition biometric technology remains inferior to fingerprint biometric technology for the purpose of one-to-many matches and is not consistent with the biometric information that the United States collects from visa applicants through its visa issuance process. Consequently, individuals from Visa Waiver Program countries who do not go through visa applications and interviews at the point of origin are admitted into the United States with only a facial biometric identifier contained in their passport.

(4) In order to be eligible for the Visa Waiver Program, Visa Waiver Program countries should issue visas and passports that conform with the same biometric standard as travel documents issued by the United States.

(5) Because the United Sates must set an example in the establishment of an international travel document biometric identification standard, and must ensure that United States issued passports are not used by non-United States citizens to fraudulently gain entrance into the United States, the United States should not only comply with the standards set by the International Civil Aviation Organization, but should include fingerprints as a second additional biometric identifier on the passports it issues to its citizens.

(b) FINGERPRINTS ON UNITED STATES PASSPORTS.—

(1) IN GENERAL.—The Secretary of State shall ensure that each passport issued by the United States after the effective date of this subsection—

(A) contains the index fingerprints of the person to whom such passport was issued; and

(B) complies with the additional biometric standard established by the International Civil Aviation Organization.

(2) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There are authorized to be appropriated a total of $1,000,000,000 for fiscal years 2005 and 2006 to carry out the provisions of paragraph (1).

(B) AVAILABILITY.—Any amounts appropriated pursuant to subparagraph (A) shall remain available until expended.

(3) EFFECTIVE DATE.—This subsection shall take effect on the date which is 1 year after the date of enactment of this Act.

(c) BIOMETRIC STANDARD FOR PASSPORTS ISSUED BY VISA WAIVER PROGRAM COUNTRIES.—

(1) IN GENERAL.—Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—

(A) in subsection (a)(3)(A), by striking ''satisfies the internationally accepted standard for machine readability.'' and inserting the following:

''(i) satisfies the internationally accepted standard for machine readability; and

''(ii) contains fingerprint biometric identifiers of the alien.''; and

(B) in subsection (c)(2)(B)(i), by striking ''satisfy the internationally accepted standard for machine readability.'' and inserting the following:

''(i) satisfy the internationally accepted standard for machine readability; and

''(ii) contain fingerprint biometric identifiers of such citizens.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date which is 1 year after the date on which the Secretary of State begins to issue passports in accordance with subsection (b)(1).

SA 3873. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

SEC. ___. RAILROAD CARRIERS AND MASS TRANSPORTATION PROTECTION ACT OF 2004.

(a) SHORT TITLE.—This section may be cited as the ''Railroad Carriers and Mass Transportation Protection Act of 2004''.

(b) IN GENERAL.—Chapter 97 of title 18, United States Code, is amended by striking sections 1992 through 1993 and inserting the following:

''§ 1992. Terrorist attacks and other violence against railroad carriers, passenger vessels, and against mass transportation systems on land, on water, or through the air

''(a) GENERAL PROHIBITIONS.—Whoever, in a circumstance described in subsection (c), knowingly—

''(1) wrecks, derails, sets fire to, or disables railroad on-track equipment, a passenger vessel, or a mass transportation vehicle;

''(2) with intent to endanger the safety of any passenger or employee of a railroad carrier, passenger vessel, or mass transportation provider, or with a reckless disregard for the safety of human life, and without previously obtaining the permission of the railroad carrier, mass transportation provider, or owner of the passenger vessel—

''(A) places any biological agent or toxin, destructive substance, or destructive device in, upon, or near railroad on-track equipment, a passenger vessel, or a mass transportation vehicle; or

''(B) releases a hazardous material or a biological agent or toxin on or near the property of a railroad carrier, owner of a passenger vessel, or mass transportation provider;

''(3) sets fire to, undermines, makes unworkable, unusable, or hazardous to work on or use, or places any biological agent or toxin, destructive substance, or destructive device in, upon, or near any—

''(A) tunnel, bridge, viaduct, trestle, track, electromagnetic guideway, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, without previously obtaining the permission of the railroad carrier, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck railroad on-track equipment;

''(B) garage, terminal, structure, track, electromagnetic guideway, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, without previously obtaining the permission of the mass transportation provider, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck a mass transportation vehicle used, operated, or employed by a mass transportation provider; or

''(C) structure, supply, or facility used in the operation of, or in the support of the operation of, a passenger vessel, without previously obtaining the permission of the owner of the passenger vessel, and with intent to, or knowing or having reason to know that such activity would likely disable or wreck a passenger vessel;

''(4) removes an appurtenance from, damages, or otherwise impairs the operation of a railroad signal system or mass transportation signal or dispatching system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal, without authorization from the rail carrier or mass transportation provider;

''(5) with intent to endanger the safety of any passenger or employee of a railroad carrier, owner of a passenger vessel, or mass transportation provider or with a reckless disregard for the safety of human life, interferes with, disables, or incapacitates any dispatcher, driver, captain, locomotive engineer, railroad conductor, or other person while the person is employed in dispatching, operating, or maintaining railroad on-track equipment, a passenger vessel, or a mass transportation vehicle;

''(6) engages in conduct, including the use of a dangerous weapon, with the intent to cause death or serious bodily injury to any person who is on the property of a railroad carrier, owner of a passenger vessel, or mass transportation provider that is used for railroad or mass transportation purposes;

''(7) conveys false information, knowing the information to be false, concerning an attempt or alleged attempt that was made, is being made, or is to be made, to engage in a violation of this subsection; or

''(8) attempts, threatens, or conspires to engage in any violation of any of paragraphs (1) through (7);

shall be fined under this title or imprisoned not more than 20 years, or both.

''(b) AGGRAVATED OFFENSE.—Whoever commits an offense under subsection (a) in a circumstance in which—

''(1) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying a passenger or employee at the time of the offense;

''(2) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying high-level radioactive waste or spent nuclear fuel at the time of the offense;

''(3) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying a hazardous material at the time of the offense that—

''(A) was required to be placarded under subpart F of part 172 of title 49, Code of Federal Regulations; and

''(B) is identified as class number 3, 4, 5, 6.1, or 8 and packing group I or packing group II, or class number 1, 2, or 7 under the hazardous materials table of section 172.101 of title 49, Code of Federal Regulations; or

''(4) the offense results in the death of any person;

shall be fined under this title or imprisoned for any term of years or life, or both. In the case of a violation described in paragraph (2), the term of imprisonment shall be not less than 30 years; and, in the case of a violation described in paragraph (4), the offender shall be fined under this title and imprisoned for life and be subject to the death penalty.

''(c) CRIMES AGAINST PUBLIC SAFETY OFFICER.—Whoever commits an offense under subsection (a) that results in death or serious bodily injury to a public safety officer while the public safety officer was engaged in the performance of official duties, or on account of the public safety officer's performance of official duties, shall be imprisoned for a term of not less than 20 years and, if death results, shall be imprisoned for life and be subject to the death penalty.

''(d) CIRCUMSTANCES REQUIRED FOR OFFENSE.—A circumstance referred to in subsection (a) is any of the following:

''(1) Any of the conduct required for the offense is, or, in the case of an attempt, threat, or conspiracy to engage in conduct, the conduct required for the completed offense would be, engaged in, on, against, or affecting a mass transportation provider, owner of a passenger vessel, or railroad carrier engaged in or affecting interstate or foreign commerce.

''(2) Any person travels or communicates across a State line in order to commit the offense, or transports materials across a State line in aid of the commission of the offense.

''(e) NONAPPLICABILITY.—Subsection (a) does not apply to the conduct with respect to a destructive substance or destructive device that is also classified under chapter 51 of title 49 as a hazardous material in commerce if the conduct—

''(1) complies with chapter 51 of title 49 and regulations, exemptions, approvals, and orders issued under that chapter, or

''(2) constitutes a violation, other than a criminal violation, of chapter 51 of title 49 or a regulation or order issued under that chapter.

''(f) DEFINITIONS.—In this section—

''(1) the term 'biological agent' has the meaning given to that term in section 178(1);

''(2) the term 'dangerous weapon' means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, including a pocket knife with a blade of less than 2½ inches in length and a box cutter;

''(3) the term 'destructive device' has the meaning given to that term in section 921(a)(4);

''(4) the term 'destructive substance' means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or material, or matter of a combustible, contaminative, corrosive, or explosive nature, except that the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes;

''(5) the term 'hazardous material' has the meaning given to that term in chapter 51 of title 49;

''(6) the term 'high-level radioactive waste' has the meaning given to that term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12));

''(7) the term 'mass transportation' has the meaning given to that term in section 5302(a)(7) of title 49, except that the term includes school bus, charter, and sightseeing transportation;

''(8) the term 'on-track equipment' means a carriage or other contrivance that runs on rails or electromagnetic guideways;

''(9) the term 'public safety officer' has the meaning given such term in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b);

''(10) the term 'railroad on-track equipment' means a train, locomotive, tender, motor unit, freight or passenger car, or other on-track equipment used, operated, or employed by a railroad carrier;

''(11) the term 'railroad' has the meaning given to that term in chapter 201 of title 49;

''(12) the term 'railroad carrier' has the meaning given to that term in chapter 201 of title 49;

''(13) the term 'serious bodily injury' has the meaning given to that term in section 1365;

''(14) the term 'spent nuclear fuel' has the meaning given to that term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23));

''(15) the term 'State' has the meaning given to that term in section 2266;

''(16) the term 'toxin' has the meaning given to that term in section 178(2);

''(17) the term 'vehicle' means any carriage or other contrivance used, or capable of being used, as a means of transportation on land, on water, or through the air; and

''(18) the term 'passenger vessel' has the meaning given that term in section 2101(22) of title 46, United States Code, and includes a small passenger vessel, as that term is defined under section 2101(35) of that title.''.

(c) CONFORMING AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 97 of title 18, United States Code, is amended—

(A) by striking ''**RAILROADS**'' in the chapter heading and inserting ''**RAILROAD CARRIERS AND MASS TRANSPORTATION SYSTEMS ON LAND, ON WATER, OR THROUGH THE AIR**'';

(B) by striking the items relating to sections 1992 and 1993; and

(C) by inserting after the item relating to section 1991 the following:

''1992. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air.''.

(2) TABLE OF CHAPTERS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item relating to chapter 97 and inserting the following:

''97. Railroad carriers and mass transportation systems on land, on water, or through the air ..... 1991''.

(3) CONFORMING AMENDMENTS.—Title 18, United States Code, is amended—

(A) in section 2332b(g)(5)(B)(i), by striking ''1992 (relating to wrecking trains), 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems),'' and inserting ''1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),'';

(B) in section 2339A, by striking ''1993,''; and

(C) in section 2516(1)(c) by striking ''1992 (relating to wrecking trains),'' and inserting ''1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),''.

SA 3874. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 211, after line 22, add the following:

SEC. 337. RETENTION OF CURRENT PROGRAMS, PROJECTS, AND ACTIVITIES WITHIN JOINT MILITARY INTELLIGENCE PROGRAM AND TACTICAL INTELLIGENCE AND RELATED ACTIVITIES PROGRAMS PENDING REVIEW.

(a) RETENTION WITHIN CURRENT PROGRAMS.—Notwithstanding any other provision of law, all programs, projects, and activities contained within the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities program as of the date of the enactment of this Act shall remain within such programs until a thorough review of such programs is completed.

(b) REMOVAL FROM CURRENT PROGRAMS.—A program, project, or activity referred to in subsection (a) may be removed from the Joint Military Intelligence Program or the Tactical Intelligence and Related Activities programs only if agreed to by the National Intelligence Director and the Secretary of Defense.

SA 3875. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 6, strike line 24 and all that follows through page 7, line 2, and insert the following:

(ii) includes all programs, projects, and activities of the National Foreign Intelligence Program as of the date of the enactment of this Act, including the Central Intelligence Agency, the

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SA 3876. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 213, insert after line 8, the following:

SEC. 352. PRESERVATION OF AUTHORITY AND ACCOUNTABILITY.

Nothing in this Act, or the amendments made by this Act, shall be construed to impair and otherwise affect the authority of—

(1) the Director of the Office of Management and Budget; or

(2) the principal officers of the executive departments as heads of their respective departments, including, but not limited to—

(A) the authority of the Secretary of State under section 199 of the Revised Statutes (22 U.S.C. 2651) and the State Department Basic Authorities Act;

(B) the authority of the Secretary of Energy under title II of the Department of Energy Organization Act (42 U.S.C. 7131);

(C) the authority of the Secretary of Homeland Security under section 102(a) of the Homeland Security Act of 2002 (6 U.S.C. 112(a));

(D) the authority of the Secretary of Defense under sections 113(b) and 162(b) of title 10, United States Code;

(E) the authority of the Secretary of the Treasury under section 301(b) of title 31, United States Code;

(F) the authority of the Attorney General under section 503 of title 28, United States Code; and

(G) the authority of the heads of executive departments under section 301 of title 5, United States Code.

On page 213, line 9, strike ''**352.**'' and insert ''**353.**''.

SA 3877. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 40, strike line 18 and all that follows through page 41, line 4, and insert the following:

(b) CONCURRENCE OF NID IN CERTAIN APPOINTMENTS RECOMMENDED BY SECRETARY OF DEFENSE.—(1) In the event of a vacancy in a position referred to in paragraph (2), the Secretary of Defense shall obtain the concurrence of the National Intelligence Director before recommending to the President an individual for nomination to fill such vacancy. If the Director does not concur in the recommendation, the Secretary may make the recommendation to the President without the concurrence of the Director, but shall include in the recommendation a statement that the Director does not concur in the recommendation.

On page 41, line 12, strike ''CONCURRENCE OF'' and insert ''CONSULTATION WITH''.

On page 41, beginning on line 15, strike ''obtain the concurrence of'' and insert ''consult with''.

SA 3878. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 21, insert after ''Program'' the following: ''(other than the Directorate for Intelligence (J2) of the Joint Staff)''.

SA 3879. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 8, between lines 6 and 7, insert the following:

(8) The term ''personal'', except as otherwise expressly provided, means civilian personnel of the United States Government.

SA 3880. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 15, line 5, strike ''consultation'' and insert ''coordination''.

SA 3881. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

TITLE ___—SCOTT CAMPBELL, STEPHANIE ROPER, WENDY PRESTON, LOARNA GILLIS, AND NILA LYNNE CRIME VICTIMS' RIGHTS ACT

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims' Rights Act''.

SEC. ___02. CRIME VICTIMS' RIGHTS.

(a) AMENDMENT TO TITLE 18.—Part II of title 18, United States Code, is amended by adding at the end the following:

''CHAPTER 237—CRIME VICTIMS' RIGHTS

''Sec.
''3771. Crime victims' rights.

''§ 3771. Crime victims' rights

''(a) RIGHTS OF CRIME VICTIMS.—A crime victim has the following rights:

''(1) The right to be reasonably protected from the accused.

''(2) The right to reasonable, accurate, and timely notice of any public proceeding involving the crime or of any release or escape of the accused.

''(3) The right not to be excluded from any such public proceeding.

''(4) The right to be reasonably heard at any public proceeding involving release, plea, or sentencing.

''(5) The right to confer with the attorney for the Government in the case.

''(6) The right to full and timely restitution as provided in law.

''(7) The right to proceedings free from unreasonable delay.

''(8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

''(b) RIGHTS AFFORDED.—In any court proceeding involving an offense against a crime victim, the court shall ensure that the crime victim is afforded the rights described in subsection (a). The reasons for any decision denying relief under this chapter shall be clearly stated on the record.

''(c) BEST EFFORTS TO ACCORD RIGHTS.—

''(1) GOVERNMENT.—Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection (a).

''(2) CONFLICT.—In the event of any material conflict of interest between the prosecutor and the crime victim, the prosecutor shall advise the crime victim of the conflict and take reasonable steps to direct the crime victim to the appropriate legal referral, legal assistance, or legal aid agency.

''(3) NOTICE.—Notice of release otherwise required pursuant to this chapter shall not be given if such notice may endanger the safety of any person.

''(d) ENFORCEMENT AND LIMITATIONS.—

''(1) RIGHTS.—The crime victim, the crime victim's lawful representative, and the attorney for the Government may assert the rights established in this chapter. A person accused of the crime may not obtain any form of relief under this chapter.

''(2) MULTIPLE CRIME VICTIMS.—In a case where the court finds that the number of crime victims makes it impracticable to accord all of the crime victims the rights contained in this chapter, the court shall fashion a procedure to give effect to this chapter.

''(3) WRIT OF MANDAMUS.—If a Federal court denies any right of a crime victim under this chapter or under the Federal Rules of Criminal Procedure, the Government or the crime victim may apply for a writ of mandamus to the appropriate court of appeals. The court of appeals shall take up and decide such application forthwith and shall order such relief as may be necessary to protect the crime victim's ability to exercise the rights.

''(4) ERROR.—In any appeal in a criminal case, the Government may assert as error the district court's denial of any crime victim's right in the proceeding to which the appeal relates.

''(5) NEW TRIAL.—In no case shall a failure to afford a right under this chapter provide grounds for a new trial.

''(6) NO CAUSE OF ACTION.—Nothing in this chapter shall be construed to authorize a cause of action for damages.

''(e) CRIME VICTIM.—In this chapter, the term 'crime victim' means a person directly and proximately harmed as a result of the commission of an offense listed in 2332b(g)(5)(B) of this title.

''(f) PROCEDURES TO PROMOTE COMPLIANCE.—

''(1) REGULATIONS.—Not later than 1 year after the date of enactment of this chapter, the Attorney General of the United States shall promulgate regulations to enforce the rights of crime victims and to ensure compliance by responsible officials with the obligations described in law respecting crime victims.

''(2) CONTENTS.—The regulations promulgated under paragraph (1) shall—

''(A) establish an administrative authority within the Department of Justice to receive and investigate complaints relating to the provision or violation of the rights of a crime victim;

''(B) require a course of training for employees and offices of the Department of Justice that fail to comply with provisions of Federal law pertaining to the treatment of crime victims, and otherwise assist such employees and offices in responding more effectively to the needs of crime victims;

''(C) contain disciplinary sanctions, including suspension or termination from employment, for employees of the Department of Justice who willfully or wantonly fail to comply with provisions of Federal law pertaining to the treatment of crime victims; and

''(D) provide that the Attorney General, or the designee of the Attorney General, shall be the final arbiter of the complaint, and that there shall be no judicial review of the final decision of the Attorney General by a complainant.''.

(b) TABLE OF CHAPTERS.—The table of chapters for part II of title 18, United States Code, is amended by inserting at the end the following:

''237. Crime victims' rights ..... 3771''.

SEC. ___03. INCREASED RESOURCES FOR ENFORCEMENT OF CRIME VICTIMS' RIGHTS.

(a) CRIME VICTIMS LEGAL ASSISTANCE GRANTS.—The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404C the following:

''SEC. 1404D. CRIME VICTIMS LEGAL ASSISTANCE GRANTS.

''(a) IN GENERAL.—The Director may make grants as provided in section 1404(c)(1)(A) to State, tribal, and local prosecutors' offices, law enforcement agencies, courts, jails, and correctional institutions, and to qualified public and private entities, to develop, establish, and maintain programs for the enforcement of crime victims' rights as provided in law.

''(b) FALSE CLAIMS ACT.—Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the 'False Claims Act'), may be used for grants under this section, subject to appropriation.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds made available under section 1402(d) of the Victims of Crime Act of 1984, there are authorized to be appropriated to carry out this Act—

(1) $2,000,000 for fiscal year 2005 and $5,000,000 for each of fiscal years 2006, 2007, 2008, and 2009 to United States Attorneys Offices for Victim/Witnesses Assistance Programs;

(2) $2,000,000 for fiscal year 2005 and $5,000,000 in each of the fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice for enhancement of the Victim Notification System;

(3) $300,000 in fiscal year 2005 and $500,000 for each of the fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice for staff to administer the appropriation for the support of the National Crime Victim Law Institute or other organizations as designated under paragraph (4);

(4) $7,000,000 for fiscal year 2005 and $11,000,000 for each of the fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice, for the support of—

(A) the National Crime Victim Law Institute and the establishment and operation of the Institute's programs to provide counsel for victims in criminal cases for the enforcement of crime victims' rights in Federal jurisdictions, and in States and tribal governments that have laws substantially equivalent to the provisions of chapter 237 of title 18, United States Code; or

(B) other organizations substantially similar to that organization as determined by the Director of the Office for Victims of Crime.

(c) INCREASED RESOURCES TO DEVELOP STATE-OF-THE-ART SYSTEMS FOR NOTIFYING CRIME VICTIMS OF IMPORTANT DATES AND DEVELOPMENTS.—The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404D the following:

''SEC. 1404E. CRIME VICTIMS NOTIFICATION GRANTS.

''(a) IN GENERAL.—The Director may make grants as provided in section 1404(c)(1)(A) to State, tribal, and local prosecutors' offices, law enforcement agencies, courts, jails, and correctional institutions, and to qualified public or private entities, to develop and implement state-of-the-art systems for notifying victims of crime of important dates and developments relating to the criminal proceedings at issue in a timely and efficient manner, provided that the jurisdiction has laws substantially equivalent to the provisions of chapter 237 of title 18, United States Code.

''(b) INTEGRATION OF SYSTEMS.—Systems developed and implemented under this section may be integrated with existing case management systems operated by the recipient of the grant.

''(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds made available under section 1402(d), there are authorized to be appropriated to carry out this section—

''(1) $5,000,000 for fiscal year 2005; and

''(2) $5,000,000 for each of the fiscal years 2006, 2007, 2008, and 2009.

''(d) FALSE CLAIMS ACT.—Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the 'False Claims Act'), may be used for grants under this section, subject to appropriation.''.

SEC. ___04. REPORTS.

(a) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Not later than 1 year after the date of enactment of this Act and annually thereafter, the Administrative Office of the United States Courts, for each Federal court, shall report to Congress the number of times that a right established in chapter 237 of title 18, United States Code, is asserted in a criminal case and the relief requested is denied and, with respect to each such denial, the reason for such denial, as well as the number of times a mandamus action is brought pursuant to chapter 237 of title 18, and the result reached.

(b) GENERAL ACCOUNTING OFFICE.—

(1) STUDY.—The Comptroller General shall conduct a study that evaluates the effect and efficacy of the implementation of the amendments made by this Act on the treatment of crime victims in the Federal system.

(2) REPORT.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall prepare and submit to the appropriate committees a report containing the results of the study conducted under paragraph (1).

SA 3882. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 60, strike line 5 and all that follows through page 77, line 18, and insert the following:

SEC. 141. INSPECTOR GENERAL OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) OFFICE OF INSPECTOR GENERAL OF NATIONAL INTELLIGENCE AUTHORITY.—There is within the National Intelligence Authority an Office of the Inspector General of the National Intelligence Authority.

(b) PURPOSE.—The purpose of the Office of the Inspector General of the National Intelligence Authority is to—

(1) create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independently investigations, inspections, and audits relating to—

(A) the programs and operations of the National Intelligence Authority;

(B) the relationships among the elements of the intelligence community within the National Intelligence Program; and

(C) the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community;

(2) recommend policies designed—

(A) to promote economy, efficiency, and effectiveness in the administration of such programs and operations, and in such relationships; and

(B) to prevent and detect fraud and abuse in such programs, operations, and relationships;

(3) provide a means for keeping the National Intelligence Director fully and currently informed about—

(A) problems and deficiencies relating to the administration of such programs and operations, and to such relationships; and

(B) the necessity for, and the progress of, corrective actions; and

(4) in the manner prescribed by this section, ensure that the congressional intelligence committees are kept similarly informed of—

(A) significant problems and deficiencies relating to the administration of such programs and operations, and to such relationships; and

(B) the necessity for, and the progress of, corrective actions.

(c) INSPECTOR GENERAL OF NATIONAL INTELLIGENCE AUTHORITY.—(1) There is an Inspector General of the National Intelligence Authority, who shall be the head of the Office of the Inspector General of the National Intelligence Authority, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Any individual nominated for appointment as Inspector General of the National Intelligence Authority shall have significant prior experience in the fields of intelligence and national security.

(d) DUTIES AND RESPONSIBILITIES.—(1) The Inspector General of the National Intelligence Authority shall have the duties and responsibilities set forth in applicable provisions of the Inspector General Act of 1978 (5 U.S.C. App.).

(2) In addition to the duties and responsibilities provided for in paragraph (1), the Inspector General shall—

(1) provide policy direction for, and plan, conduct, supervise, and coordinate independently, the investigations, inspections, and audits relating to the programs and operations of the National Intelligence Authority, the relationships among the elements of the intelligence community within the National Intelligence Program, and the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community to ensure they are conducted efficiently and in accordance with applicable law and regulations;

(2) keep the National Intelligence Director fully and currently informed concerning violations of law and regulations, violations of civil liberties and privacy, and fraud and other serious problems, abuses, and deficiencies that may occur in such programs and operations, and in such relationships, and to report the progress made in implementing corrective action;

(3) take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Inspector General, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appropriate to minimize the disclosure of intelligence sources and methods described in such reports; and

(4) in the execution of the duties and responsibilities under this section, comply with generally accepted government auditing standards.

(e) AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978.—(1) The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) by redesignating section 8J as section 8K; and

(B) by inserting after section 8I the following new section:

''SPECIAL PROVISIONS CONCERNING THE NATIONAL INTELLIGENCE AUTHORITY

''SEC. 8J. (a) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the National Intelligence Authority shall be under the authority, direction, and control of the National Intelligence Director with respect to audits or investigations, or the issuance of subpoenas, which require access to information concerning intelligence or counterintelligence matters the disclosure of which would constitute a serious threat to national security. With respect to such information, the Director may prohibit the Inspector General from initiating, carrying out, or completing any investigation, inspection, or audit if the Director determines that such prohibition is necessary to preserve the vital national security interests of the United States.

''(b) If the National Intelligence Director exercises the authority under subsection (a), the Director shall submit to the congressional intelligence committees an appropriately classified statement of the reasons for the exercise of such authority within seven days.

''(c) The National Intelligence Director shall advise the Inspector General of the National Intelligence Authority at the time a report under subsection (a) is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of such report.

''(d) The Inspector General of the National Intelligence Authority may submit to the congressional intelligence committees any comments on a report of which the Inspector General has notice under subsection (c) that the Inspector General considers appropriate.

''(e) In this section, the term 'congressional intelligence committees' means—

''(1) the Select Committee on Intelligence of the Senate; and

''(2) the Permanent Select Committee on Intelligence of the House of Representatives.''.

(2) Section 8H(a)(1)(A) of that Act is amended by inserting ''National Intelligence Authority,'' before ''Defense Intelligence Agency''.

(3) Section 11 of that Act is amended—

(1) in paragraph (1), by inserting ''the National Intelligence Director;'' after ''the Office of Personnel Management;''; and

(2) in paragraph (2), by inserting ''the National Intelligence Authority,'' after ''the Office of Personnel Management,''.

SA 3883. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3705 by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 10, strike line 20 and all that follows through page 11, line 7, and insert the following:

''(d) TRAINING AND EXERCISES OFFICE WITHIN THE OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS.—

''(1) IN GENERAL.—The Secretary shall create within the Office for State and Local Government Coordination and Preparedness an internal office that shall be the proponent for all national domestic preparedness, training, education, and exercises within the Office for Domestic Preparedness.

''(2) OFFICE HEAD.—The Secretary shall select an individual with recognized expertise

in first-responder training and exercises to head the office, and such person shall report directly to the Director of the Office for State and Local Government Coordination and Preparedness.''.

SA 3884. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 10, line 17, strike the semicolon and all that follows through page 11, line 7, and insert a period.

SA 3885. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following new title:

TITLE IV—INTERNATIONAL BROADCASTING ACTIVITIES

SEC. 401. SHORT TITLE.

This title may be cited as the ''Initiative 911 Act''.

SEC. 402. FINDINGS.

Congress makes the following findings:

(1) Open communication of information and ideas among peoples of the world contributes to international peace and stability, and that the promotion of such communication is important to the national security of the United States.

(2) The United States needs to improve its communication of information and ideas to people in foreign countries, particularly in countries with significant Muslim populations.

(3) A significant expansion of United States international broadcasting would provide a cost-effective means of improving communication with countries with significant Muslim populations by providing news, information, and analysis, as well as cultural programming, through both radio and television broadcasts.

(4) The report of the National Commission on Terrorist Attacks Upon the United States stated that, ''Recognizing that Arab and Muslim audiences rely on satellite television and radio, the government has begun some promising initiatives in television and radio broadcasting to the Arab world, Iran, and Afghanistan. These efforts are beginning to reach large audiences. The Broadcasting Board of Governors has asked for much larger resources. It should get them.''.

SEC. 403. SPECIAL AUTHORITY FOR SURGE CAPACITY.

The United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.) is amended by adding at the end the following new section:

''SEC. 316. SPECIAL AUTHORITY FOR SURGE CAPACITY.

''(a) EMERGENCY AUTHORITY.—

''(1) IN GENERAL.—Whenever the President determines it to be important to the national interests of the United States and so certifies to the appropriate congressional committees, the President, on such terms and conditions as the President may determine, is authorized to direct any department, agency, or other entity of the United States to furnish the Broadcasting Board of Governors with such assistance as may be necessary to provide international broadcasting activities of the United States with a surge capacity to support United States foreign policy objectives during a crisis abroad.

''(2) SUPERSEDES EXISTING LAW.—The authority of paragraph (1) supersedes any other provision of law.

''(3) SURGE CAPACITY DEFINED.—In this subsection, the term 'surge capacity' means the financial and technical resources necessary to carry out broadcasting activities in a geographical area during a crisis.

''(b) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—Effective October 1, 2004, there are authorized to be appropriated to the President such amounts as may be necessary for the President to carry out this section, except that no such amount may be appropriated which, when added to amounts previously appropriated for such purpose but not yet obligated, would cause such amounts to exceed $25,000,000.

''(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations in this subsection are authorized to remain available until expended.

''(3) DESIGNATION OF APPROPRIATIONS.—Amounts appropriated pursuant to the authorization of appropriations in this subsection may be referred to as the 'United States International Broadcasting Surge Capacity Fund'.''.

SEC. 404. REPORT.

In each annual report submitted under section 305(a)(9) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6204(a)(9)) after the date of enactment of this title, the Broadcasting Board of Governors shall give special attention to reporting on the activities carried out under this title.

SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to amounts otherwise available for such purposes, the following amounts are authorized to be appropriated to carry out United States Government broadcasting activities under the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.), the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.), the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted in division of G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 107–277), and this title, and to carry out other authorities in law consistent with such purposes:

(1) INTERNATIONAL BROADCASTING OPERATIONS.—For ''International Broadcasting Operations'', $497,000,000 for the fiscal year 2005.

(2) BROADCASTING CAPITAL IMPROVEMENTS.—For ''Broadcasting Capital Improvements'', $70,000,000 for the fiscal year 2005.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations in this section are authorized to remain available until expended.

SEC. 406. EFFECTIVE DATE.

Notwithstanding section 341 or any other provision of this Act, this title shall become effective on the date of enactment of this Act.

SA 3886. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. TERRORIST SCREENING CENTER.

(a) CRITERIA FOR WATCHLIST.—The Secretary of Homeland Security, in consultation with the Director of the Federal Bureau of Investigation, shall define and report to Congress the criteria for placing individuals on the Terrorist Screening Center consolidated screening watch list, including reliability thresholds, minimum standards for identifying information, specific designations of the certainty and level of threat the individual poses, and specific instructions about the consequences that apply to the individual if located. To the greatest extent consistent with the protection of classified information and applicable law, the report shall be in unclassified form and available to the public, with a classified annex where necessary.

(b) SAFEGUARDS AGAINST ERRONEOUS LISTINGS.—The Secretary of Homeland Security, in consultation with the Director of the Federal Bureau of Investigation, shall establish a process for individuals to challenge ''Automatic Selectee'' or ''No Fly'' designations on the consolidated screening watch list and have their names removed from such lists, if erroneously present.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Privacy and Civil Liberties Oversight Board shall submit a report assessing the impact of the ''No Fly'' and ''Automatic Selectee'' lists on privacy and civil liberties to the Committee on the Judiciary, the Committee on Governmental Affairs, and the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on the Judiciary, the Committee on Government Reform, and the Committee on Transportation and Infrastructure of the House of Representatives. The report shall include any recommendations for practices, procedures, regulations, or legislation to eliminate or minimize adverse effects of such lists on privacy, discrimination, due process and other civil liberties, as well as the implications of applying those lists to other modes of transportation. The Comptroller General of the United States shall cooperate with the Privacy and Civil Liberties Board in the preparation of the report. To the greatest extent consistent with the protection of classified information and applicable law, the report shall be in unclassified form and available to the public, with a classified annex where necessary.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall become effective on the date of enactment of this Act.

SA 3887. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. AMENDMENTS TO FISA.

(a) TREATMENT OF NON-UNITED STATES PERSONS WHO ENGAGE IN INTERNATIONAL TERRORISM WITHOUT AFFILIATION WITH INTERNATIONAL TERRORIST GROUPS.—

(1) IN GENERAL.—Section 101(b)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)(1)) is amended by adding at the end the following new subparagraph:

''(C) engages in international terrorism or activities in preparation therefor; or''.

(2) SUNSET.—The amendment made by paragraph (1) shall expire on the date that is 5 years after the date of enactment of this section.

(b) ADDITIONAL ANNUAL REPORTING REQUIREMENTS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—

(1) ADDITIONAL REPORTING REQUIREMENTS.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(A) by redesignating—

(i) title VI as title VII; and

(ii) section 601 as section 701; and

(B) by inserting after title V the following new title VI:

''TITLE VI—REPORTING REQUIREMENT

''ANNUAL REPORT OF THE ATTORNEY GENERAL

''SEC. 601. (a) In addition to the reports required by sections 107, 108, 306, 406, and 502 in April each year, the Attorney General shall submit to the appropriate committees of Congress each year a report setting forth with respect to the one-year period ending on the date of such report—

''(1) the aggregate number of non-United States persons targeted for orders issued under this Act, including a break-down of those targeted for—

''(A) electronic surveillance under section 105;

''(B) physical searches under section 304;

''(C) pen registers under section 402; and

''(D) access to records under section 501;

''(2) the number of individuals covered by an order issued under this Act who were determined pursuant to activities authorized by this Act to have acted wholly alone in the activities covered by such order;

''(3) the number of times that the Attorney General has authorized that information obtained under this Act may be used in a criminal proceeding or any information derived therefrom may be used in a criminal proceeding; and

''(4) in a manner consistent with the protection of the national security of the United States—

''(A) the portions of the documents and applications filed with the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted;

''(B) the portions of the opinions and orders of the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted.

''(b) The first report under this section shall be submitted not later than six months after the date of the enactment of this Act. Subsequent reports under this section shall be submitted annually thereafter.

''(c) In this section, the term 'appropriate committees of Congress' means—

''(1) the Select Committee on Intelligence and the Committee on the Judiciary of the Senate; and

''(2) the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.''.

(2) CLERICAL AMENDMENT.—The table of contents for that Act is amended by striking the items relating to title VI and inserting the following new items:

''TITLE VI—REPORTING REQUIREMENT

''Sec. 601. Annual report of the Attorney General.

''TITLE VII—EFFECTIVE DATE

''Sec. 701. Effective date.''.

SA 3888. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. U.S. HOMELAND SECURITY SIGNAL CORPS.

(a) SHORT TITLE.—This section may be cited as the ''U.S. Homeland Security Signal Act of 2004''.

(b) HOMELAND SECURITY SIGNAL CORPS.—

(1) IN GENERAL.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended by adding at the end the following:

''SEC. 510. HOMELAND SECURITY SIGNAL CORPS.

''(a) ESTABLISHMENT.—There is established, within the Directorate of Emergency Preparedness and Response, a Homeland Security Signal Corps (referred to in this section as the 'Signal Corps').

''(b) PERSONNEL.—The Signal Corps shall be comprised of specially trained police officers, firefighters, emergency medical technicians, and other emergency personnel.

''(c) RESPONSIBILITIES.—The Signal Corps shall—

''(1) ensure that first responders can communicate with one another, mobile command centers, headquarters, and the public at disaster sites or in the event of a terrorist attack or a national crisis;

''(2) provide sufficient training and equipment for fire, police, and medical units to enable those units to deal with all threats and contingencies in any environment; and

''(3) secure joint-use equipment, such as telecommunications trucks, that can access surviving telephone land lines to supplement communications access.

''(d) NATIONAL SIGNAL CORPS STANDARDS.—The Signal Corps shall establish a set of standard operating procedures, to be followed by signal corps throughout the United States, that will ensure that first responders from each Federal, State, and local agency have the methods and means to communicate with, or substitute for, first responders from other agencies in the event of a multi-state terrorist attack or a national crisis.

''(e) DEMONSTRATION SIGNAL CORPS.—

''(1) IN GENERAL.—The Secretary shall establish demonstration signal corps in New York City, and in the District of Columbia, consisting of specially trained law enforcement and other personnel. The New York City Signal Demonstration Corps shall consist of personnel from the New York Police Department, the Fire Department of New York, the Port Authority of New York and New Jersey, and other appropriate Federal, State, regional, or local personnel. The District of Columbia Signal Corps shall consist of specially trained personnel from all appropriate Federal, State, regional, and local law enforcement personnel in Washington, D.C., including from the Metropolitan Police Department.

''(2) RESPONSIBILITIES.—The demonstration signal corps established under this subsection shall—

''(A) ensure that 'best of breed' military communications technology is identified and secured for first responders;

''(B) ensure communications connectivity between the New York Police Department, the Fire Department of New York, and other appropriate Federal, State, regional, and local law enforcement personnel in the metropolitan New York City area;

''(C) identify the means of communication that work best in New York's tunnels, skyscrapers, and subways to maintain communications redundancy;

''(D) ensure communications connectivity between the Capitol Police, the Metropolitan Police Department, and other appropriate Federal, State, regional, and local law enforcement personnel in the metropolitan Washington, D.C. area;

''(E) identify the means of communication that work best in Washington, D.C.'s office buildings, tunnels, and subway system to maintain communications redundancy; and

''(F) serve as models for other major metropolitan areas across the Nation.

''(3) TEAM CAPTAINS.—The mayor of New York City and the District of Columbia shall appoint team captains to command communications companies drawn from the personnel described in paragraph (1).

''(4) TECHNICAL ASSISTANCE.—The Signal Corps Headquarters, located in Fort Monmouth, New Jersey, shall provide technical assistance to the New York City Demonstration Signal Corps.

''(f) REPORTING REQUIREMENT.—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Secretary shall submit a report, to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives, which outlines the progress of the Signal Corps in the preceding year and describes any problems, issues, or other impediments to effective communication between first responders in the event of a terrorist attack or a national crisis.

''(g) AUTHORIZATION OF APPROPRIATIONS.—

''(1) DEMONSTRATION SIGNAL CORPS.—There are authorized to be appropriated $50,000,000 for fiscal year 2005 to carry out subsection (e).

''(2) FISCAL YEARS 2006 THROUGH 2009.—There are authorized to be appropriated $100,000,000 for each of the fiscal years 2006 through 2008—

''(A) to create signal corps in high terrorism threat areas throughout the United States; and

''(B) to carry out the mission of the Signal Corps to assist Federal, State, and local law enforcement agencies to effectively communicate with each other during a terrorism event or a national crisis.''.

(2) TECHNICAL AMENDMENT.—Section 1(b) of the Homeland Security Act of 2002 (Public Law 107–296) is amended by inserting after the item relating to section 509 the following:

''Sec. 510. Homeland Security Signal Corps.''.

SA 3889. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place, insert the following new section:

SEC. ___. COMMISSION ON THE UNITED STATES-SAUDI ARABIA RELATIONSHIP.

(a) FINDINGS.—Congress makes the following findings:

(1) Despite improvements in counterterrorism cooperation between the Governments of the United States and Saudi Arabia following the terrorist attacks in Riyadh, Saudi Arabia on May 12, 2003, the relationship between the United States and Saudi Arabia continues to be problematic in regard to combating Islamic extremism.

(2) The Government of Saudi Arabia has not always responded promptly and fully to

United States requests for assistance in the global war on Islamist terrorism. Examples of this lack of cooperation have included an unwillingness to provide the United States Government with access to individuals wanted for questioning in relation to terrorist acts and to assist in investigations of terrorist activities.

(3) The state religion of Saudi Arabia, a militant and exclusionary form of Islam known as Wahhabism, preaches violence against nonbelievers or infidels and serves as the religious basis for Osama Bin Laden and al Qaeda. Through support for madrassas, mosques, cultural centers, and other entities Saudi Arabia has actively supported the spread of this religious sect.

(4) The Secretary of State designated Saudi Arabia a country of particular concern under section 402(b)(1)(A) of the International Religious Freedom Act of 1998 (22 U.S.C. 6442(b)(1)(A)) because the Government of Saudi Arabia has engaged in or tolerated systematic, ongoing, and egregious violations of religious freedom.

(5) The Department of State's International Religious Freedom Report for 2004 concluded that religious freedom does not exist in Saudi Arabia.

(6) The Ambassador-at-large for International Religious Freedom expressed concern about Saudi Arabia's export of religious extremism and intolerance to other countries where religious freedom for Muslims is respected.

(7) Historically, the Government of Saudi Arabia has allowed financiers of terrorism to operate within its borders.

(8) The Government of Saudi Arabia stated in February 2004 that it would establish a national commission to combat terrorist financing within Saudi Arabia, however, it has not fulfilled that promise.

(9) There have been no reports of the Government of Saudi Arabia pursuing the arrest, trial, or punishment of individuals who have provided financial support for terrorist activities. The laws of Saudi Arabia to combat terrorist financing have not been fully implemented.

(b) COMMISSION ON THE UNITED STATES-SAUDI ARABIA RELATIONSHIP.—

(1) ESTABLISHMENT.—There is established, within the legislative branch, the National Commission on the United States-Saudi Arabia Relationship (in this section referred to as the ''Commission'').

(2) PURPOSES.—The purposes of the Commission are to investigate, evaluate, and report on—

(A) the current status and activities of diplomatic relations between the Government of the United States and the Government of Saudi Arabia;

(B) the degree of cooperation exhibited by the Government of Saudi Arabia toward the Government of the United States in relation to intelligence, security cooperation, and the fight against Islamist terrorism;

(C) the status of the support provided by the Government of Saudi Arabia to promote the dissemination of Wahabbism; and

(D) the efforts of the Government of Saudi Arabia to enact domestic measures to curtail terrorist financing.

(3) AUTHORITY.—The Commission is authorized to carry out purposes described in paragraph (2).

(c) COMPOSITION OF COMMISSION.—The Commission shall be composed of 10 members, as follows:

(1) Two members appointed by the President, one of whom the President shall designate as the chairman of the Commission.

(2) Two members appointed by the Speaker of the House of Representatives.

(3) Two members appointed by the minority leader of the House of Representatives.

(4) Two members appointed by the majority leader of the Senate.

(5) Two members appointed by the minority leader of the Senate.

(d) REPORT.—Not later that 270 days after the date of the enactment of this Act, the Commission shall submit to the President and Congress a report on the relationship between the United States and Saudi Arabia. The report shall include the recommendations of the Commission to—

(1) increase the transparency of diplomatic relations between the Government of the United States and the Government of Saudi Arabia;

(2) improve cooperation between Government of the United States and the Government of Saudi Arabia in efforts to share intelligence information related to the war on terror;

(3) curtail the support and dissemination of Wahabbism by the Government of Saudi Arabia;

(4) enhance the efforts of the Government of Saudi Arabia to combat terrorist financing;

(5) create a foreign policy strategy for the United States to improve cooperation with the Government of Saudi Arabia in the war on terror, including any recommendations regarding the use of sanctions or other diplomatic measures;

(6) curtail the support or toleration of violations of religious freedom by the Government of Saudi Arabia; and

(7) encourage the Government of Saudi Arabia to improve the human rights conditions in Saudi Arabia that have been identified as poor by the Department of State.

(e) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of the enactment of this Act.

SA 3890. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the end, add the following new title:

TITLE IV—SECURITY OF TRUCKS TRANSPORTING HAZARDOUS MATERIALS

SEC. 401. IMPROVEMENTS TO SECURITY OF HAZARDOUS MATERIALS TRANSPORTED BY TRUCK.

(a) PLAN FOR IMPROVING SECURITY OF HAZARDOUS MATERIALS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall develop a plan for improving the security of hazardous materials transported by truck.

(2) CONTENT.—The plan under paragraph (1) shall include—

(A) a plan for tracking such hazardous materials;

(B) a strategy for preventing hijackings of trucks carrying such materials; and

(C) a proposed mechanism for recovering lost or stolen trucks carrying such materials.

(b) INCREASED INSPECTION OF TRUCKS.—

(1) IN GENERAL.—The Secretary of Homeland Security shall require that the number of trucks entering the United States that are manually searched and screened in fiscal year 2005 is at least twice the number of trucks manually searched and screened in fiscal year 2004.

(2) WAIT TIMES AT INSPECTIONS.—In carrying out this section, the Secretary shall ensure that the average wait time for trucks entering the United States does not increase.

(c) BACKGROUND CHECKS.—Beginning not later than 3 years after the date of the enactment of this Act, the Secretary of Homeland Security shall require background checks of all truck drivers with certifications to transport hazardous materials.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of enactment of this Act.

SA 3891. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the end, add the following new title:

TITLE IV—RAIL SECURITY

SEC. 401. IMPROVEMENTS TO RAIL SECURITY.

(a) PROTECTION OF PASSENGER AREAS IN RAIL STATIONS.—The Secretary of Homeland Security shall require that, not later than 2 years after the date of the enactment of this Act, each of the 30 rail stations in the United States with the highest daily rate of passenger traffic be equipped with a sufficient number of wall-mounted and ceiling-mounted radiological, biological, chemical, and explosive detectors to provide coverage of the entire passenger area of such station.

(b) USE OF THREAT DETECTORS REQUIRED ON CERTAIN TRAINS.—The Secretary of Homeland Security shall require that, not later than 3 years after the date of the enactment of this Act, each train traveling through any of the 10 rail stations in the United States with the highest daily rate of passenger traffic be equipped with a radiological, biological, chemical, and explosive detector.

(c) REPORT ON SAFETY OF PASSENGER RAIL TUNNELS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall—

(A) review the safety and security of all passenger rail tunnels, including in particular the access and egress points of such tunnels; and

(B) submit to Congress a report on needs for improving the safety and security of passenger rail tunnels.

(2) CONTENT.—The report under paragraph (1) shall include recommendations regarding the funding necessary to eliminate security deficiencies at, and upgrade the safety of, passenger rail tunnels.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of enactment of this Act.

SA 3892. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the end, add the following new title:

TITLE IV—STRENGTHENING BORDER SECURITY

SEC. 401. TECHNOLOGY STANDARDS TO CONFIRM IDENTITY.

Section 403(c)(1) of the USA PATRIOT ACT (8 U.S.C. 1379(1)) is amended to read as follows:

''(1) IN GENERAL.—The Attorney General, the Secretary of State, and the Secretary of Homeland Security jointly, through the National Institute of Standards and Technology (NIST), and in consultation with the Secretary of the Treasury and other Federal law enforcement and intelligence agencies that the Attorney General, Secretary of State, and the Secretary of Homeland Security

deem appropriate and in consultation with Congress, shall prior to October 26, 2005, develop and certify a technology standard, including appropriate biometric identifier standards for multiple immutable physical characteristics, such as fingerprints and eye retinas, that can be used to verify the identity of persons applying for a United States visa or such persons seeking to enter the United States pursuant to a visa for the purposes of conducting background checks, confirming identity, and ensuring that a person has not received a visa under a different name.''.

SEC. 402. REQUIREMENTS FOR ENTRY AND EXIT DOCUMENTS.

(a) IN GENERAL.—Paragraph (1) of section 303(b) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732(b)) is amended to read as follows:

''(1) IN GENERAL.—Not later than October 25, 2005, the Attorney General, the Secretary of State, and the Secretary of Homeland Security shall issue to aliens only machine-readable, tamper-resistant visas and other travel and entry documents that use biometric identifiers for multiple immutable characteristics, such as fingerprints and eye retinas. The Attorney General, the Secretary of State, and the Secretary of Homeland Security shall jointly establish biometric and document identification standards for multiple immutable physical characteristics, such as fingerprints and eye retinas, to be employed on such visas and other travel and entry documents.''.

(b) CONSULTATION REQUIREMENTS.—Such section is further amended—

(1) in paragraph (2)(A), by striking ''in consultation with the Secretary of State'' and inserting ''in consultation with the Secretary of State and the Secretary of Homeland Security''; and

(2) in paragraph (2)(B) in the matter preceding clause (i), by striking ''in consultation with the Secretary of State'' and inserting ''in consultation with the Secretary of State and the Secretary of Homeland Security''.

(c) USE OF READERS AND SCANNERS.—Paragraph (2)(B) of such section, as amended by subsection (b), is further amended—

(1) by redesignating clauses (i), (ii), and (iii) as (ii), (iii), and (iv), respectively; and

(2) by inserting before clause (ii), as redesignated by paragraph (1), the following:

''(i) can authenticate biometric identifiers of multiple immutable physical characteristics, as such fingerprints and eye retinas;''.

(d) CERTIFICATION REQUIREMENTS.—Subsection (c) of such section is amended to read as follows:

''(1) IN GENERAL.—Not later than October 26, 2005, the government of each country that is designated to participate in the visa waiver program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) shall certify, as a condition of designation or a continuation of that designation, that it has a program to issue to its nationals machine-readable passports that are tamper-resistant and incorporate biometric and authentication identifiers of multiple immutable physical characteristics, such as fingerprints and eye retina scans. This paragraph shall not be construed to rescind the requirement of subsections (a)(3) and (c)(2)(B)(i) of section 217 of the Immigration and Nationality Act.''.

SA 3893. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the end, add the following new title:

TITLE IV—OTHER MATTERS

SEC. 401. CARGO INSPECTION.

(a) MANUAL INSPECTION.—Not later than 2 years after the date of enactment of this Act, the Secretary of Homeland Security shall require that the number of containers manually inspected at ports in the United States is not less than 10 percent of the total number of containers off-loaded at such ports.

(b) INSPECTION FOR NUCLEAR MATERIALS.—Not later than 2 years after the date of enactment of this Act, the Secretary of Homeland Security shall require that the number of containers screened for nuclear or radiological materials is not less than 100 percent of the total number of containers off-loaded at ports in the United States.

(c) INSPECTION FOR CHEMICAL, BIOLOGICAL, AND EXPLOSIVE MATERIALS.—Not later than 4 years after the date of enactment of this Act, the Secretary of Homeland Security shall require that the 10 ports in the United States that off-load the highest number of containers have the capability to screen not less than 10 percent of the total number of containers off-loaded at each such port for chemical, biological, and explosive materials.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on port security technology. Such report shall include—

(1) a description of the progress made in the research and development of port security technologies;

(2) a comprehensive schedule detailing the amount of time necessary to test and install appropriate port security technologies; and

(3) the total amount of funds necessary to develop, produce, and install appropriate port security technologies.

(e) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of enactment of this Act.

SA 3894. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. ENHANCING CYBERSECURITY.

(a) SHORT TITLE.—This section may be cited as the ''Department of Homeland Security Cybersecurity Enhancement Act of 2004''.

(b) ASSISTANT SECRETARY FOR CYBERSECURITY.—

(1) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is amended by adding at the end the following:

''SEC. 203. ASSISTANT SECRETARY FOR CYBERSECURITY.

''(a) IN GENERAL.—There shall be in the Directorate for Information Analysis and Infrastructure Protection a National Cybersecurity Office headed by an Assistant Secretary for Cybersecurity (in this section referred to as the 'Assistant Secretary'), who shall assist the Secretary in promoting cybersecurity for the Nation.

''(b) GENERAL AUTHORITY.—The Assistant Secretary, subject to the direction and control of the Secretary, shall have primary authority within the Department for all cybersecurity-related critical infrastructure protection programs of the Department, including with respect to policy formulation and program management.

''(c) RESPONSIBILITIES.—The responsibilities of the Assistant Secretary shall include the following:

''(1) To establish and manage—

''(A) a national cybersecurity response system that includes the ability to—

''(i) analyze the effect of cybersecurity threat information on national critical infrastructure; and

''(ii) aid in the detection and warning of attacks on, and in the restoration of, cybersecurity infrastructure in the aftermath of such attacks;

''(B) a national cybersecurity threat and vulnerability reduction program that identifies cybersecurity vulnerabilities that would have a national effect on critical infrastructure, performs vulnerability assessments on information technologies, and coordinates the mitigation of such vulnerabilities;

''(C) a national cybersecurity awareness and training program that promotes cybersecurity awareness among the public and the private sectors and promotes cybersecurity training and education programs;

''(D) a government cybersecurity program to coordinate and consult with Federal, State, and local governments to enhance their cybersecurity programs; and

''(E) a national security and international cybersecurity cooperation program to help foster Federal efforts to enhance international cybersecurity awareness and cooperation.

''(2) To coordinate with the private sector on the program under paragraph (1) as appropriate, and to promote cybersecurity information sharing, vulnerability assessment, and threat warning regarding critical infrastructure.

''(3) To coordinate with other directorates and offices within the Department on the cybersecurity aspects of their missions.

''(4) To coordinate with the Under Secretary for Emergency Preparedness and Response to ensure that the National Response Plan developed pursuant to section 502(6) of the Homeland Security Act of 2002 (6 U.S.C. 312(6)) includes appropriate measures for the recovery of the cybersecurity elements of critical infrastructure.

''(5) To develop processes for information sharing with the private sector, consistent with section 214, that—

''(A) promote voluntary cybersecurity best practices, standards, and benchmarks that are responsive to rapid technology changes and to the security needs of critical infrastructure; and

''(B) consider roles of Federal, State, local, and foreign governments and the private sector, including the insurance industry and auditors.

''(6) To coordinate with the Chief Information Officer of the Department in establishing a secure information sharing architecture and information sharing processes, including with respect to the Department's operation centers.

''(7) To consult with the Electronic Crimes Task Force of the United States Secret Service on private sector outreach and information activities.

''(8) To consult with the Office for Domestic Preparedness to ensure that realistic cybersecurity scenarios are incorporated into tabletop and recovery exercises.

''(9) To consult and coordinate, as appropriate, with other Federal agencies on cybersecurity-related programs, policies, and operations.

''(10) To consult and coordinate within the Department and, where appropriate, with other relevant Federal agencies, on security of digital control systems, such as Supervisory Control and Data Acquisition (SCADA) systems.

''(d) AUTHORITY OVER THE NATIONAL COMMUNICATIONS SYSTEM.—The Assistant Secretary shall have primary authority within the Department over the National Communications System.''.

(2) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to subtitle A of title II the following:

''203. Assistant Secretary for Cybersecurity.''.

(c) CYBERSECURITY DEFINED.—Section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101) is amended by adding at the end the following:

''(17)(A) The term 'cybersecurity' means the prevention of damage to, the protection of, and the restoration of computers, electronic communications systems, electronic communication services, wire communication, and electronic communication, including information contained therein, to ensure its availability, integrity, authentication, confidentiality, and nonrepudiation.

''(B) In this paragraph—

''(i) each of the terms 'damage' and 'computer' has the meaning that term has in section 1030 of title 18, United States Code; and

''(ii) each of the terms 'electronic communications system', 'electronic communication service', 'wire communication', and 'electronic communication' has the meaning that term has in section 2510 of title 18, United States Code.''.

SA 3895. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 9, line 10, insert '', the National Counterproliferation Center,'' after ''Center''.

On page 14, beginning on line 14, strike ''and establish'' and all that follows through line 16 and insert ''manage and oversee the National Counterproliferation Center under section 144, and establish, manage, and oversee national intelligence centers under section 145;''.

On page 15, beginning on line 12, strike ''to national intelligence centers under section 144,'' and insert ''to the National Counterproliferation Center under section 144, to national intelligence centers under section 145,''.

On page 94, strike line 5 and insert the following:

SEC. 144. NATIONAL COUNTERPROLIFERATION CENTER.

(a) NATIONAL COUNTERPROLIFERATION CENTER.—(1) There is within the National Intelligence Authority a National Counterproliferation Center.

(2) The purpose of the Center is to develop, direct, and coordinate the efforts and activities of the United States Government to deter, prevent, halt, and rollback the pursuit, acquisition, development, and trafficking of weapons of mass destruction, related materials and technologies, and their delivery systems to terrorists, terrorist organizations, other non-state actors of concern, and state actors of concern.

(b) DIRECTOR OF NATIONAL COUNTERPROLIFERATION CENTER.—(1) There is a Director of the National Counterproliferation Center, who shall be the head of the National Counterproliferation Center, and who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Any individual nominated for appointment as the Director of the National Counterproliferation Center shall have significant expertise in matters relating to the national security of the United States and matters relating to the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies that threaten the national security of the United States, its interests, and allies.

(3) The individual serving as the Director of the National Counterproliferation Center may not, while so serving, serve in any capacity in any other element of the intelligence community, except to the extent that the individual serving as Director of the National Counterproliferation Center is doing so in an acting capacity.

(c) SUPERVISION.—(1) The Director of the National Counterproliferation Center shall report to the National Intelligence Director on the budget, personnel, activities, and programs of the National Counterproliferation Center.

(2) The Director of the National Counterproliferation Center shall report to the National Intelligence Director on the activities of the Directorate of Intelligence of the National Counterproliferation Center under subsection (g).

(3) The Director of the National Counterproliferation Center shall report to the President and the National Intelligence Director on the planning and progress of counterproliferation programs, operations, and activities.

(d) PRIMARY MISSIONS.—The primary missions of the National Counterproliferation Center shall be as follows:

(1) To develop and unify strategy for the counterproliferation efforts (including law enforcement, economic, diplomatic, intelligence, and military efforts) of the United States Government.

(2) To make recommendations to the National Intelligence Director with regard to the collection and analysis requirements and priorities of the National Counterproliferation Center.

(3) To integrate counterproliferation intelligence activities of the United States Government, both inside and outside the United States, and with other governments.

(4) To develop multilateral and United States Government counterproliferation plans, which plans shall—

(A) involve more than one department, agency, or element of the executive branch (unless otherwise directed by the President) of the United States Government; and

(B) include the mission, objectives to be achieved, courses of action, parameters for such courses of action, coordination of agency operational activities, recommendations for operational plans, and assignment of national, departmental, or agency responsibilities.

(5) To ensure that the collection, analysis, and utilization of counterproliferation intelligence, and the conduct of counterproliferation operations, by the United States Government are informed by the analysis of all-source intelligence.

(e) DUTIES AND RESPONSIBILITIES OF DIRECTOR OF NATIONAL COUNTERPROLIFERATION CENTER.—Notwithstanding any other provision of law, at the direction of the President, the National Security Council, and the National Intelligence Director, the Director of the National Counterproliferation Center shall—

(1) serve as the principal adviser to the President and the National Intelligence Director on intelligence and operations relating to counterproliferation;

(2) provide unified strategic direction for the counterproliferation efforts of the United States Government and for the effective integration and deconfliction of counterproliferation intelligence collection, analysis, and operations across agency boundaries, both inside and outside the United States, and with foreign governments;

(3) advise the President and the National Intelligence Director on the extent to which the counterproliferation program recommendations and budget proposals of the departments, agencies, and elements of the United States Government conform to the policies and priorities established by the President and the National Security Council;

(4) in accordance with subsection (f), concur in, or advise the President on, the selections of personnel to head the nonmilitary operating entities of the United States Government with principal missions relating to counterproliferation;

(5) serve as the principal representative of the United States Government to multilateral and bilateral organizations, forums, events, and activities related to counterproliferation;

(6) advise the President and the National Intelligence Director on the science and technology research and development requirements and priorities of the counterproliferation programs and activities of the United States Government; and

(7) perform such other duties as the National Intelligence Director may prescribe or are prescribed by law;

(f) ROLE OF DIRECTOR OF NATIONAL COUNTERPROLIFERATION CENTER IN CERTAIN APPOINTMENTS.—(1) In the event of a vacancy in the most senior position of such nonmilitary operating entities of the United States Government having principal missions relating to counterproliferation as the President may designate, the head of the department or agency having jurisdiction over the position shall obtain the concurrence of the Director of the National Counterproliferation Center before appointing an individual to fill the vacancy or recommending to the President an individual for nomination to fill the vacancy. If the Director does not concur in the recommendation, the head of the department or agency concerned may fill the vacancy or make the recommendation to the President (as the case may be) without the concurrence of the Director, but shall notify the President that the Director does not concur in the appointment or recommendation (as the case may be).

(2) The President shall notify Congress of the designation of an operating entity of the United States Government under paragraph (1) not later than 30 days after the date of such designation.

(g) DIRECTORATE OF INTELLIGENCE.—(1) The Director of the National Counterproliferation Center shall establish and maintain within the National Counterproliferation Center a Directorate of Intelligence.

(2) The Directorate shall have primary responsibility within the United States Government for the collection and analysis of information regarding proliferators (including individuals, entities, organizations, companies, and states) and their networks, from all sources of intelligence, whether collected inside or outside the United States, or by foreign governments.

(3) The Directorate shall—

(A) be the principal repository within the United States Government for all-source information on suspected proliferators, their networks, their activities, and their capabilities;

(B) propose intelligence collection and analysis requirements and priorities for action by elements of the intelligence community inside and outside the United States, and by friendly foreign governments;

(C) have primary responsibility within the United States Government for net assessments and warnings about weapons of mass destruction proliferation threats, which assessments and warnings shall be based on a comparison of the intentions and capabilities of proliferators with assessed national vulnerabilities and countermeasures;

(D) conduct through a separate, independent office independent analyses (commonly referred to as ''red teaming'') of intelligence collected and analyzed with respect to proliferation; and

(E) perform such other duties and functions as the Director of the National Counterproliferation Center may prescribe.

(h) DIRECTORATE OF PLANNING.—(1) The Director of the National Counterproliferation Center shall establish and maintain within the National Counterproliferation Center a Directorate of Planning.

(2) The Directorate shall have primary responsibility for developing counterproliferation plans, as described in subsection (d)(3).

(3) The Directorate shall—

(A) provide guidance, and develop strategy and interagency plans, to counter proliferation activities based on policy objectives and priorities established by the National Security Council;

(B) develop plans under subparagraph (A) utilizing input from personnel in other departments, agencies, and elements of the United States Government who have expertise in the priorities, functions, assets, programs, capabilities, and operations of such departments, agencies, and elements with respect to counterproliferation;

(C) assign responsibilities for counterproliferation operations to the departments and agencies of the United States Government (including the Department of Defense, the Department of State, the Central Intelligence Agency, the Federal Bureau of Investigation, the Department of Homeland Security, and other departments and agencies of the United States Government), consistent with the authorities of such departments and agencies;

(D) monitor the implementation of operations assigned under subparagraph (C) and update interagency plans for such operations as necessary;

(E) report to the President and the National Intelligence Director on the performance of the departments, agencies, and elements of the United States with the plans developed under subparagraph (A); and

(F) perform such other duties and functions as the Director of the National Counterproliferation Center may prescribe.

(4) The Directorate may not direct the execution of operations assigned under paragraph (3).

(i) STAFF.—(1) The National Intelligence Director may appoint deputy directors of the National Counterproliferation Center to oversee such portions of the operations of the Center as the National Intelligence Director considers appropriate.

(2) To assist the Director of the National Counterproliferation Center in fulfilling the duties and responsibilities of the Director of the National Counterproliferation Center under this section, the National Intelligence Director shall employ in the National Counterproliferation Center a professional staff having an expertise in matters relating to such duties and responsibilities.

(3) In providing for a professional staff for the National Counterproliferation Center under paragraph (2), the National Intelligence Director may establish as positions in the excepted service such positions in the Center as the National Intelligence Director considers appropriate.

(4) The National Intelligence Director shall ensure that the analytical staff of the National Counterproliferation Center is comprised primarily of experts from elements in the intelligence community and from such other personnel in the United States Government as the National Intelligence Director considers appropriate.

(5)(A) In order to meet the requirements in paragraph (4), the National Intelligence Director shall, from time to time—

(i) specify the transfers, assignments, and details of personnel funded within the National Intelligence Program to the National Counterproliferation Center from any other non-Department of Defense element of the intelligence community that the National Intelligence Director considers appropriate; and

(ii) in the case of personnel from a department, agency, or element of the United States Government and not funded within the National Intelligence Program, request the transfer, assignment, or detail of such personnel from the department, agency, or other element concerned.

(B)(i) The head of an element of the intelligence community shall promptly effect any transfer, assignment, or detail of personnel specified by the National Intelligence Director under subparagraph (A)(i).

(ii) The head of a department, agency, or element of the United States Government receiving a request for transfer, assignment, or detail of personnel under subparagraph (A)(ii) shall, to the extent practicable, approve the request.

(6) Personnel employed in or assigned or detailed to the National Counterproliferation Center under this subsection shall be under the authority, direction, and control of the Director of the National Counterproliferation Center on all matters for which the Center has been assigned responsibility and for all matters related to the accomplishment of the missions of the Center.

(7) Performance evaluations of personnel assigned or detailed to the National Counterproliferation Center under this subsection shall be undertaken by the supervisors of such personnel at the Center.

(8) The supervisors of the staff of the National Counterproliferation Center may, with the approval of the National Intelligence Director, reward the staff of the Center for meritorious performance by the provision of such performance awards as the National Intelligence Director shall prescribe.

(9) The National Intelligence Director may delegate to the Director of the National Counterproliferation Center any responsibility, power, or authority of the National Intelligence Director under paragraphs (1) through (8).

(10) The National Intelligence Director shall ensure that the staff of the National Counterproliferation Center has access to all databases and information maintained by the elements of the intelligence community that are relevant to the duties of the Center.

(j) SUPPORT AND COOPERATION OF OTHER AGENCIES.—(1) The elements of the intelligence community and the other departments, agencies, and elements of the United States Government shall support, assist, and cooperate with the National Counterproliferation Center in carrying out its missions under this section.

(2) The support, assistance, and cooperation of a department, agency, or element of the United States Government under this subsection shall include, but not be limited to—

(A) the implementation of interagency plans for operations, whether foreign or domestic, that are developed by the National Counterproliferation Center in a manner consistent with the laws and regulations of the United States and consistent with the limitation in subsection (h)(4);

(B) cooperative work with the Director of the National Counterproliferation Center to ensure that ongoing operations of such department, agency, or element do not conflict with operations planned by the Center;

(C) reports, upon request, to the Director of the National Counterproliferation Center on the performance of such department, agency, or element in implementing responsibilities assigned to such department, agency, or element through joint operations plans; and

(D) the provision to the analysts of the National Counterproliferation Center electronic access in real time to information and intelligence collected by such department, agency, or element that is relevant to the missions of the Center.

(3) In the event of a disagreement between the National Intelligence Director and the head of a department, agency, or element of the United States Government on a plan developed or responsibility assigned by the National Counterproliferation Center under this subsection, the National Intelligence Director may either accede to the head of the department, agency, or element concerned or notify the President of the necessity of resolving the disagreement.

(k) DEFINITIONS.—In this section:

(1) The term ''counterproliferation'' means—

(A) activities, programs and measures for interdicting (including deterring, preventing, halting, and rolling back) the transfer or transport (whether by air, land or sea) of weapons of mass destruction, their delivery systems, and related materials and technologies to and from states and non-state actors (especially terrorists and terrorist organizations) of proliferation concern;

(B) enhanced law enforcement activities and cooperation to deter, prevent, halt, and rollback proliferation-related networks, activities, organizations, and individuals, and bring those involved to justice; and

(C) activities, programs, and measures for identifying, collecting, and analyzing information and intelligence related to the transfer or transport of weapons, systems, materials, and technologies as described in subparagraph (A).

(2) The term ''states and non-state actors of proliferation concern'' refers to countries or entities (including individuals, entities, organizations, companies, and networks) that should be subject to counterproliferation activities because of their actions or intent to engage in proliferation through—

(A) efforts to develop or acquire chemical, biological, or nuclear weapons and associated delivery systems; or

(B) transfers (either selling, receiving, or facilitating) of weapons of mass destruction, their delivery systems, or related materials.

SEC. 145. NATIONAL INTELLIGENCE CENTERS.

On page 207, strike line 16 and insert the following:

Center.

''Director of the National Counterproliferation Center.''.

SA 3896. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 8, strike lines 3 and 4 and insert the following:

(A) the Select Committee on Intelligence of the Senate;

(B) the Permanent Select Committee on Intelligence of the House of Representatives;

(C) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

(D) the Majority Leader and the Minority Leader of the Senate.

On page 172, beginning on line 24, strike ''the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives,'' and insert ''the committees and Members of Congress specified in subsection (c),''.

On page 173, beginning on line 17, strike ''the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives,'' and insert ''the committees and Members of Congress specified in subsection (c),''.

On page 174, beginning on line 7, strike ''Representatives'' and all that follows through line 13 and insert ''Representatives, the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives, and the Majority Leader and the Minority Leader of the Senate. Upon making a report covered by this paragraph—

''(A) the Chairman, Vice Chairman, or Ranking Member, as the case may be, of such a committee shall notify the other of the Chairman, Vice Chairman, or Ranking Member, as the case may be, of such committee of such request;

''(B) the Speaker of the House of Representatives and the Majority Leader of the House of Representatives or the Minority Leader of the House of Representatives shall notify the other or others, as the case may be, of such request; and

''(C) the Majority Leader and Minority Leader of the Senate shall notify the other of such request.

On page 174, between lines 22 and 23, insert the following:

(c) COMMITTEES AND MEMBERS OF CONGRESS.—The committees and Members of Congress specified in this subsection are—

(1) the Select Committee on Intelligence of the Senate;

(2) the Permanent Select Committee on Intelligence of the House of Representatives;

(3) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

(4) the Majority Leader and the Minority Leader of the Senate.

On page 176, between lines 3 and 4, insert the following:

(iii) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives;

(iv) the Majority Leader and the Minority Leader of the Senate;

On page 176, line 4, strike ''(ii)'' and insert ''(v)''.

On page 176, line 7, strike ''(iii)'' and insert ''(vi)''.

On page 200, between lines 4 and 5, insert the following:

SEC. 307. MODIFICATION OF DEFINITION OF CONGRESSIONAL INTELLIGENCE COMMITTEES UNDER NATIONAL SECURITY ACT OF 1947.

(a) IN GENERAL.—Paragraph (7) of section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended to read as follows:

''(7) The term 'congressional intelligence committees' means—

''(A) the Select Committee on Intelligence of the Senate;

''(B) the Permanent Select Committee on Intelligence of the House of Representatives;

''(C) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

''(D) the Majority Leader and the Minority Leader of the Senate.''.

(b) FUNDING OF INTELLIGENCE ACTIVITIES.—Paragraph (2) of section 504(e) of that Act (50 U.S.C. 414(e)) is amended to read as follows:

''(2) the term 'appropriate congressional committees' means—

''(A) the Select Committee on Intelligence and the Committee on Appropriations of the Senate;

''(B) the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives;

''(C) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

''(D) the Majority Leader and the Minority Leader of the Senate;''.

On page 200, line 5, strike ''**307.**'' and insert ''**308.**''.

On page 200, line 12, strike ''**308.**'' and insert ''**309.**''.

On page 200, line 19, strike ''**309.**'' and insert ''**310.**''.

On page 201, line 11, strike ''**310.**'' and insert ''**311.**''.

On page 203, line 9, strike ''**311.**'' and insert ''**312.**''.

On page 204, line 1, strike ''**312.**'' and insert ''**313.**''.

SA 3897. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 78, line 18, strike ''and'' at the end.

On page 79, line 2, strike the period and insert ''; and''.

On page 79, between lines 2 and 3, insert the following:

(4) monitor the effectiveness of measures taken to prevent and prohibit the involvement by intelligence community personnel in policy matters, including the development or advancement of policy proposals, options, initiatives, or recommendations, or the offering of views or commentary thereon.

SA 3898. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 171, after line 21, add the following:

SEC. 223. INDEPENDENCE OF POLICY FROM INTELLIGENCE.

(a) PROHIBITIONS ON PARTICIPATION OF INTELLIGENCE COMMUNITY PERSONNEL IN POLICY MATTERS.—To further prevent the politicization of intelligence, covered officers and employees of the intelligence community shall not—

(1) participate in policy matters, including the development of policy, debating of policy issues, offering and advancement of policy views and proposals, and voting in interagency forums on policy issues; or

(2) serve in a policy position in any branch of the United States Government, or in any position in which the person assigned to such position may be asked or required to participate in activities prohibited under paragraph (1).

(b) IMPLEMENTATION OF PROHIBITIONS.—The National Intelligence Director, the National Intelligence Council, the Inspector General of the National Intelligence Authority, the Director of the National Counterterrorism Center, and the Directors of the national intelligence centers shall each take appropriate actions to ensure the strict adherence of covered officers and employees of the intelligence community to the prohibitions set forth in subsection (a).

(c) ANNUAL REPORTS.—The National Intelligence Director shall submit to the congressional intelligence committees each year a report that sets forth—

(1) a description of the actions taken during the preceding year to ensure the strict adherence of covered officers and employees of the intelligence community to the prohibitions set forth in subsection (a); and

(2) an assessment of the effectiveness of such actions in ensuring the strict adherence of covered officers and employees of the intelligence community to such prohibitions.

(d) COVERED OFFICERS AND EMPLOYEES OF THE INTELLIGENCE COMMUNITY DEFINED.—In this section, the term ''covered officers and employees of the intelligence community'' means any officer or employee of an element of the intelligence community, other than an officer serving in a position to which appointed by the President, by and with the advice and consent of the Senate.

On page 172, line 1, strike ''**223.**'' and insert ''**224.**''.

On page 172, line 18, strike ''**224.**'' and insert ''**225.**''.

On page 174, line 23, strike ''**225.**'' and insert ''**226.**''.

SA 3899. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 153, between lines 2 and 3, insert the following:

SEC. 207. JOINT PROCEDURES FOR OPERATIONAL COORDINATION BETWEEN DEPARTMENT OF DEFENSE AND CENTRAL INTELLIGENCE AGENCY.

(a) DEVELOPMENT OF PROCEDURES.—The National Intelligence Director, in consultation with the Secretary of Defense and the Director of the Central Intelligence Agency, shall develop joint procedures to be used by the Department of Defense and the Central Intelligence Agency to improve the coordination and deconfliction of operations that involve elements of both the Armed Forces and the Central Intelligence Agency consistent with national security and the protection of human intelligence sources and methods. Those procedures shall, at a minimum, provide the following:

(1) Methods by which the Director of the Central Intelligence Agency and the Secretary of Defense can improve communication and coordination in the planning, execution, and sustainment of operations, including, as a minimum—

(A) information exchange between senior officials of the Central Intelligence Agency and senior officers and officials of the Department of Defense when planning for such an operation commences by either organization; and

(B) exchange of information between the Secretary and the Director to ensure that senior operational officials in both the Department of Defense and the Central Intelligence Agency have knowledge of the existence of the ongoing operations of the other.

(2) When appropriate, in cases where the Department of Defense and the Central Intelligence Agency are conducting separate missions in the same geographical area, mutual agreement on the tactical and strategic objectives for the region and a clear delineation of operational responsibilities to prevent conflict and duplication of effort.

(b) IMPLEMENTATION REPORT.—Not later than 180 days after the date of the enactment of the Act, the National Intelligence Director shall submit to the congressional defense committees (as defined in section 101 of title

10, United States Code) and the congressional intelligence committees a report describing the procedures established pursuant to subsection (a) and the status of the implementation of those procedures.

SEC. 208. SUPPORT OF MILITARY OPERATIONS TO COMBAT TERRORISM.

(a) AUTHORITY.—The Secretary of Defense may expend up to $25,000,000 during any fiscal year to provide support to foreign forces, irregular forces, groups, or individuals engaged in supporting or facilitating ongoing military operations by United States special operations forces to combat terrorism.

(b) INTELLIGENCE ACTIVITIES.—This section does not constitute authority to conduct a covert action, as such term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 413b(e)).

(c) ANNUAL REPORT.—Not later than 30 days after the end of each fiscal year, the Secretary shall submit to the congressional defense committees a report on support provided under this section during such fiscal year. Each such report shall describe the support provided, including a statement of the recipient of the support and the amount obligated to provide the support.

(d) FISCAL YEAR 2005 LIMITATION.—Support may be provided under subsection (a) during fiscal year 2005 only from funds made available for the Department of Defense for operations and maintenance for that fiscal year.

(e) NOTICE TO CONGRESS.—The Secretary shall notify the congressional defense committees of each exercise of the authority in subsection (a) not later than 30 days after the exercise of such authority.

(f) NOTICE TO CENTRAL INTELLIGENCE AGENCY.—Before each exercise of the authority in subsection, or as soon thereafter as is practicable, the Secretary shall notify the Director of the Central Intelligence Agency of such exercise of such authority.

SA 3900. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 213, after line 12, add the following:

TITLE IV—COUNTERTERRORISM CAPABILITIES OF THE UNITED STATES

SEC. 401. COMMISSION TO ASSESS THE OPERATIONAL COUNTERTERRORISM CAPABILITIES OF THE UNITED STATES.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the ''Commission to Assess the Operational Counterterrorism Capabilities of the United States'' (hereafter in this title referred to as the ''Commission'').

(b) COMPOSITION.—The Commission shall be composed of 9 members appointed as follows:

(1) The Speaker of the House of Representatives shall appoint 2 members of the Commission.

(2) The majority leader of the Senate shall appoint 3 members of the Commission.

(3) The minority leader of the House of Representatives shall appoint 2 members of the Commission.

(4) The minority leader of the Senate shall appoint 2 members of the Commission.

(c) QUALIFICATIONS.—Members of the Commission shall be appointed from among United States citizens with knowledge and expertise in the military, paramilitary, covert, and clandestine aspects of counterterrorism operations.

(d) CHAIRMAN AND VICE CHAIRMAN.—The members of the Commission shall select a Chairman and Vice Chairman of the Commission from among the members of the Commission.

(e) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(f) SECURITY CLEARANCES.—All members of the Commission shall hold appropriate security clearances.

(g) INITIAL ORGANIZATION REQUIREMENTS.—(1) All appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act.

(2) The Commission shall convene its first meeting not later than 30 days after the date as of which all members of the Commission have been appointed.

SEC. 402. DUTIES.

(a) IN GENERAL.—The Commission shall assess the organization, structure, authorities, and capabilities of the operational counterterrorism capabilities of the Department of Defense and the Central Intelligence Agency, including—

(1) the capability of each of the Department of Defense and the Central Intelligence Agency to deter, defend against, and defeat terrorists, terrorist organizations, and terrorist activities, both independently and in a joint manner; and

(2) the cooperation and coordination between the tactical, operational, and strategic counterterrorism elements and components of the Department of Defense and the Central Intelligence Agency.

(b) RECOMMENDATIONS.—(1) The Commission shall—

(A) identify problems and impediments to the improved effectiveness of the Department of Defense and the Central Intelligence Agency in combating terrorism, when working both independently and jointly; and

(B) make such recommendations, including recommendations for legislative and administrative action, as the Commission considers appropriate to address the problems and impediments identified under subparagraph (A) and to improve the effectiveness of each of the Department of Defense and the Central Intelligence Agency in combatting terrorism when working both independently and jointly.

(2) The recommendations under paragraph (1)(B) shall include recommendations on modifications in funding, authorities, organization, training, doctrine, resources to improve the independent and joint effectiveness of the operational elements and activities of the Department of Defense and of the Central Intelligence Agency regarding counterterrorism.

(c) REPORTS.—(1) Not later than 12 months after the date of the enactment of this Act, the Commission shall submit to Congress an interim report on the findings and conclusions of the Commission as of the date of such report as a result of the assessment required by subsection (a).

(2) Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to Congress a final report containing a detailed statement of the findings and conclusions of the Commission as a result of the assessment required by subsection (a), together with the recommendations of the Commission under subsection (b).

(3) Each report under this subsection shall be submitted in unclassified form, but may include a classified annex.

SEC. 403. POWERS.

(a) HEARINGS.—The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out the provisions of this title, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(b) INFORMATION.—The Commission may secure directly from the Department of Defense, the Central Intelligence Agency, and any other department, agency, or element of the United States Government information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this title.

(c) COOPERATION OF GOVERNMENT OFFICIALS.—For purposes of carrying out its duties, the Commission shall receive the full and timely cooperation of the Secretary of Defense, the Director of the Central Intelligence Agency, the National Intelligence Director, and any other official of the United States Government that the Commission considers appropriate.

SEC. 404. PROCEDURES.

(a) MEETINGS.—The Commission shall meet at the call of the Chairman.

(b) QUORUM.—(1) Five members of the Commission shall constitute a quorum other than for the purpose of holding hearings.

(2) The Commission shall act by resolution agreed to by a majority of the members of the Commission.

(c) COMMISSION.—The Commission may establish panels composed of less than full membership of the Commission for the purpose of carrying out the duties of the Commission. The actions of each such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(d) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this title.

SEC. 405. PERSONNEL MATTERS.

(a) PAY OF MEMBERS.—Members of the Commission shall serve without pay by reason of their work on the Commission.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—(1) The Chairman of the Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties. The appointment of a staff director shall be subject to the approval of the Commission.

(2) The Chairman of the Commission may fix the pay of the staff director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title and the rate of pay for other personnel may not exceed the maximum rate payable for grade GS–15 of the General Schedule.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Chairman of the Commission, the head of any department, agency, or element of the United States Government may detail, on a nonreimbursable

basis, any personnel of such department, agency, or element to the Commission to assist it in carrying out its duties.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title.

SEC. 406. MISCELLANEOUS ADMINISTRATIVE PROVISIONS.

(a) POSTAL AND PRINTING SERVICES.—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the United States Government.

(b) MISCELLANEOUS ADMINISTRATIVE AND SUPPORT SERVICES.—The Director of the Central Intelligence Agency shall furnish the Commission, on a reimbursable basis, any administrative and support services requested by the Commission.

SEC. 407. FUNDING.

(a) AVAILABILITY OF FUNDS.—Funds for the activities of the Commission shall be derived from amounts authorized to be appropriated for the Department of Defense for operation and maintenance for defense-wide activities for fiscal year 2005.

(b) DISBURSAL.—Upon receipt of a written certification from the Chairman of the Commission specifying the funds required for the activities of the Commission, the Secretary of Defense shall promptly disburse to the Commission, from amounts referred to in subsection (a), the funds required by the Commission as stated in such certification.

SEC. 408. TERMINATION.

The Commission shall terminate 60 days after the date of the submittal to Congress of its final report under section 402(c).

SA 3901. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ———. DEADLINE FOR COMPLETION OF CERTAIN PLANS, REPORTS, AND ASSESSMENTS.

(a) STRATEGIC PLAN REPORTS.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall transmit to the Congress—

(1) a report on the status of the National Maritime Transportation Security Plan required by section 70103(a) of title 46, United States Code, which may be submitted in classified and redacted format;

(2) a comprehensive program management plan that identifies specific tasks to be completed and deadlines for completion for the transportation security card program under section 70105 of title 46, United States Code that incorporates best practices for communicating, coordinating, and collaborating with the relevant stakeholders to resolve relevant issues, such as background checks;

(3) a report on the status of negotiations under section 103 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70111 note);

(4) the report required by section 107(b) of the Maritime Transportation Security Act of 2002 (33 U.S.C. 1226 note); and

(5) a report on the status of the development of the system and program mandated by section 111 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70116 note).

(b) OTHER REPORTS.—Within 90 days after the date of enactment of this Act—

(1) the Secretary of Homeland Security shall transmit to the Congress—

(A) a report on the establishment of the National Maritime Security Advisory Committee appointed under section 70112 of title 46, United States Code; and

(B) a report on the status of the program established under section 70116 of title 46, United States Code, to evaluate and certify secure systems of international intermodal transportation;

(2) the Secretary of Transportation shall transmit to the Congress the annual report required by section 905 of the International Maritime and Port Security Act (46 U.S.C. App. 1802) that includes information that should have been included in the last preceding annual report that was due under that section; and

(3) the Commandant of the United States Coast Guard shall transmit to Congress the report required by section 110(b) of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70101 note).

(d) EFFECTIVE DATE.—Notwithstanding any other provision of this Act, this section takes effect on the date of enactment of this Act.

SA 3902. Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following new title:

TITLE IV—RAIL SECURITY

SECTION 401. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Rail Security Act of 2004''.

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Sec. 401. Short title; table of contents.
Sec. 402. Rail transportation security risk assessment.
Sec. 403. Rail security.
Sec. 404. Study of foreign rail transport security programs.
Sec. 405. Passenger, baggage, and cargo screening.
Sec. 406. Certain personnel limitations not to apply.
Sec. 407. Fire and life-safety improvements.
Sec. 408. Memorandum of agreement.
Sec. 409. Amtrak plan to assist families of passengers involved in rail passenger accidents.
Sec. 410. Systemwide Amtrak security upgrades.
Sec. 411. Freight and passenger rail security upgrades.
Sec. 412. Oversight and grant procedures.
Sec. 413. Rail security research and development.
Sec. 414. Welded rail and tank car safety improvements.
Sec. 415. Northern Border rail passenger report.
Sec. 416. Report regarding impact on security of train travel in communities without grade separation.
Sec. 417. Whistleblower protection program.

SEC. 402. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) IN GENERAL.—

(1) VULNERABILITY ASSESSMENT.—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Secretary of Transportation, shall complete a vulnerability assessment of freight and passenger rail transportation (encompassing railroads, as that term is defined in section 20102(1) of title 49, United States Code). The assessment shall include—

(A) identification and evaluation of critical assets and infrastructures;

(B) identification of threats to those assets and infrastructures;

(C) identification of vulnerabilities that are specific to the transportation of hazardous materials via railroad; and

(D) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems, procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment.

(2) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The assessment shall take into account actions taken or planned by both public and private entities to address identified security issues and assess the effective integration of such actions.

(3) RECOMMENDATIONS.—Based on the assessment conducted under paragraph (1), the Under Secretary, in consultation with the Secretary of Transportation, shall develop prioritized recommendations for improving rail security, including any recommendations the Under Secretary has for—

(A) improving the security of rail tunnels, rail bridges, rail switching and car storage areas, other rail infrastructure and facilities, information systems, and other areas identified by the Under Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;

(B) deploying equipment to detect explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;

(C) training employees in terrorism prevention, passenger evacuation, and response activities;

(D) conducting public outreach campaigns on passenger railroads;

(E) deploying surveillance equipment; and

(F) identifying the immediate and long-term costs of measures that may be required to address those risks.

(4) PLANS.—The report required by subsection (c) shall include—

(A) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the government to provide increased security support at high or severe threat levels of alert; and

(B) a plan for coordinating rail security initiatives undertaken by the public and private sectors.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment required by subsection (a), the Under Secretary of Homeland Security for Border and Transportation Security shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, first responders, shippers of hazardous materials, public safety officials (including those within other agencies and offices within the Department of Homeland Security), and other relevant parties.

(c) REPORT.—

(1) CONTENTS.—Within 180 days after the date of enactment of this Act, the Under Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives

Committee on Transportation and Infrastructure a report containing the assessment and prioritized recommendations required by subsection (a) and an estimate of the cost to implement such recommendations.

(2) FORMAT.—The Under Secretary may submit the report in both classified and redacted formats if the Under Secretary determines that such action is appropriate or necessary.

(d) 2-YEAR UPDATES.—The Under Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations every 2 years and transmit a report, which may be submitted in both classified and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $5,000,000 for fiscal year 2005 for the purpose of carrying out this section.

SEC. 403. RAIL SECURITY.

(a) RAIL POLICE OFFICERS.—Section 28101 of title 49, United States Code, is amended by striking ''the rail carrier'' each place it appears and inserting ''any rail carrier''.

(b) REVIEW OF RAIL REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Under Secretary of Homeland Security for Border and Transportation Security, shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail security.

SEC. 404. STUDY OF FOREIGN RAIL TRANSPORT SECURITY PROGRAMS.

(a) REQUIREMENT FOR STUDY.—Within one year after the date of enactment of the Rail Security Act of 2004, the Comptroller General shall complete a study of the rail passenger transportation security programs that are carried out for rail transportation systems in Japan, member nations of the European Union, and other foreign countries.

(b) PURPOSE.—The purpose of the study shall be to identify effective rail transportation security measures that are in use in foreign rail transportation systems, including innovative measures and screening procedures determined effective.

(c) REPORT.—The Comptroller General shall submit a report on the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The report shall include the Comptroller General's assessment regarding whether it is feasible to implement within the United States any of the same or similar security measures that are determined effective under the study.

SEC. 405. PASSENGER, BAGGAGE, AND CARGO SCREENING.

(a) REQUIREMENT FOR STUDY AND REPORT.—The Under Secretary of Homeland Security for Border and Transportation Security, in cooperation with the Secretary of Transportation, shall—

(1) analyze the cost and feasibility of requiring security screening for passengers, baggage, and cargo on passenger trains; and

(2) report the results of the study, together with any recommendations that the Under Secretary may have for implementing a rail security screening program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

(b) PILOT PROGRAM.—As part of the study under subsection (a), the Under Secretary shall complete a pilot program of random security screening of passengers and baggage at 5 passenger rail stations served by Amtrak selected by the Under Secretary. In conducting the pilot program, the Under Secretary shall—

(1) test a wide range of explosives detection technologies, devices and methods;

(2) require that intercity rail passengers produce government-issued photographic identification which matches the name on the passenger's tickets prior to boarding trains; and

(3) attempt to give preference to locations at the highest risk of terrorist attack and achieve a distribution of participating train stations in terms of geographic location, size, passenger volume, and whether the station is used by commuter rail passengers as well as Amtrak passengers.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security to carry out this section $5,000,000 for fiscal year 2005.

SEC. 406. CERTAIN PERSONNEL LIMITATIONS NOT TO APPLY.

Any statutory limitation on the number of employees in the Transportation Security Administration of the Department of Transportation, before or after its transfer to the Department of Homeland Security, does not apply to the extent that any such employees are responsible for implementing the provisions of this Act.

SEC. 407. FIRE AND LIFE-SAFETY IMPROVEMENTS.

(a) LIFE-SAFETY NEEDS.—The Secretary of Transportation is authorized to make grants to Amtrak for the purpose of making fire and life-safety improvements to Amtrak tunnels on the Northeast Corridor in New York, NY, Baltimore, MD, and Washington, DC.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts:

(1) For the 6 New York tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—

(A) $100,000,000 for fiscal year 2005;
(B) $100,000,000 for fiscal year 2006;
(C) $100,000,000 for fiscal year 2007;
(D) $100,000,000 for fiscal year 2008; and
(E) $170,000,000 for fiscal year 2009.

(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

(A) $10,000,000 for fiscal year 2005;
(B) $10,000,000 for fiscal year 2006;
(C) $10,000,000 for fiscal year 2007;
(D) $10,000,000 for fiscal year 2008; and
(E) $17,000,000 for fiscal year 2009.

(3) For the Washington, DC Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

(A) $8,000,000 for fiscal year 2005;
(B) $8,000,000 for fiscal year 2006;
(C) $8,000,000 for fiscal year 2007;
(D) $8,000,000 for fiscal year 2008; and
(E) $8,000,000 for fiscal year 2009.

(c) INFRASTRUCTURE UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for fiscal year 2005 $3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

(e) PLANS REQUIRED.—The Secretary may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—

(1) until Amtrak has submitted to the Secretary, and the Secretary has approved, an engineering and financial plan for such projects; and

(2) unless, for each project funded pursuant to this section, the Secretary has approved a project management plan prepared by Amtrak addressing appropriate project budget, construction schedule, recipient staff organization, document control and record keeping, change order procedure, quality control and assurance, periodic plan updates, periodic status reports, and such other matters the Secretary deems appropriate.

(f) REVIEW OF PLANS.—The Secretary of Transportation shall complete the review of the plans required by paragraphs (1) and (2) of subsection (e) and approve or disapprove the plans within 45 days after the date on which each such plan is submitted by Amtrak. If the Secretary determines that a plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary's notification, submit a modified plan for the Secretary's review. Within 15 days after receiving additional information on items previously included in the plan, and within 45 days after receiving items newly included in a modified plan, the Secretary shall either approve the modified plan, or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the portions of the plan the Secretary finds incomplete or deficient, approve all other portions of the plan, obligate the funds associated with those other portions, and execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

(g) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers at levels reflecting the extent of their use of the tunnels, if feasible.

SEC. 408. MEMORANDUM OF AGREEMENT.

(a) MEMORANDUM OF AGREEMENT.—Within 60 days after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall execute a memorandum of agreement governing the roles and responsibilities of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

(b) RAIL SAFETY REGULATIONS.—Section 20103(a) of title 49, United States Code, is amended by striking ''safety'' the first place it appears, and inserting ''safety, including security,''.

SEC. 409. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

''§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents

''(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Rail Security Act of 2004, Amtrak shall submit to the Chairman of the National Transportation Safety Board and the Secretary of Transportation a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.

''(b) CONTENTS OF PLANS.—The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:

''(1) A process by which Amtrak will maintain and provide to the National Transportation Safety Board and the Secretary of Transportation, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

''(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

''(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

''(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

''(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control; that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.

''(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

''(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

''(c) USE OF INFORMATION.—The National Transportation Safety Board, the Secretary of Transportation, and Amtrak may not release to any person information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.

''(d) LIMITATION ON LIABILITY.—Amtrak shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of Amtrak in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by Amtrak under subsection (b), unless such liability was caused by Amtrak's conduct.

''(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that Amtrak may take, or the obligations that Amtrak may have, in providing assistance to the families of passengers involved in a rail passenger accident.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak $500,000 for fiscal year 2005 to carry out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

''24316. Plan to assist families of passengers involved in rail passenger accidents.''.

SEC. 410. SYSTEMWIDE AMTRAK SECURITY UPGRADES.

(a) IN GENERAL—Subject to subsection (c), the Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants, through the Secretary of Transportation, to Amtrak—

(1) to secure major tunnel access points and ensure tunnel integrity in New York, Baltimore, and Washington, DC;

(2) to secure Amtrak trains;

(3) to secure Amtrak stations;

(4) to obtain a watch list identification system approved by the Under Secretary;

(5) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(6) to hire additional police and security officers, including canine units; and

(7) to expand emergency preparedness efforts.

(b) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless the projects are contained in a systemwide security plan approved by the Under Secretary, in consultation with the Secretary of Transportation, and, for capital projects, meet the requirements of section 407(e)(2). The plan shall include appropriate measures to address security awareness, emergency response, and passenger evacuation training.

(c) EQUITABLE GEOGRAPHIC ALLOCATION.—The Under Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(d) AVAILABILITY OF FUNDS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $63,500,000 for fiscal year 2005 for the purposes of carrying out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 411. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.

(a) SECURITY IMPROVEMENT GRANTS.—The Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants to freight railroads, the Alaska Railroad, hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, universities, colleges and research centers, State and local governments (for passenger facilities and infrastructure not owned by Amtrak), and, through the Secretary of Transportation, to Amtrak, for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security threats, including—

(1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations;

(2) accommodation of cargo or passenger screening equipment at the United States-Mexico border or the United States-Canada border;

(3) the security of hazardous material transportation by rail;

(4) secure intercity passenger rail stations, trains, and infrastructure;

(5) structural modification or replacement of rail cars transporting high hazard materials to improve their resistance to acts of terrorism;

(6) employee security awareness, preparedness, passenger evacuation, and emergency response training;

(7) public security awareness campaigns for passenger train operations;

(8) the sharing of intelligence and information about security threats;

(9) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(10) to hire additional police and security officers, including canine units; and

(11) other improvements recommended by the report required by section 402, including infrastructure, facilities, and equipment upgrades.

(b) ACCOUNTABILITY.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this Act and the priorities and other criteria developed by the Under Secretary.

(c) EQUITABLE ALLOCATION.—The Under Secretary shall equitably distribute the funds authorized by this section, taking into account geographic location, and shall encourage non-Federal financial participation in awarding grants. With respect to grants for passenger rail security, the Under Secretary shall also take into account passenger volume and whether a station is used by commuter rail passengers as well as intercity rail passengers.

(d) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless Amtrak meets the conditions set forth in section 410(b) of this Act.

(e) ALLOCATION BETWEEN RAILROADS AND OTHERS.—Unless as a result of the assessment required by section 402 the Under Secretary of Homeland Security for Border and Transportation Security determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made—

(1) in excess of $65,000,000 to Amtrak; or

(2) in excess of $100,000,000 for the purposes described in paragraphs (3) and (5) of subsection (a).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $350,000,000 for fiscal year 2005 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

(g) HIGH HAZARD MATERIALS DEFINED.—In this section, the term ''high hazard materials'' means poison inhalation hazard materials, Class 2.3 gases, Class 6.1 materials, and anhydrous ammonia.

SEC. 412. OVERSIGHT AND GRANT PROCEDURES.

(a) SECRETARIAL OVERSIGHT.—The Secretary of Transportation may use up to 0.5

percent of amounts made available to Amtrak for capital projects under the Rail Security Act of 2004 to enter into contracts for the review of proposed capital projects and related program management plans and to oversee construction of such projects.

(b) USE OF FUNDS.—The Secretary may use amounts available under subsection (a) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under subsection (a).

(c) PROCEDURES FOR GRANT AWARD.—The Under Secretary shall prescribe procedures and schedules for the awarding of grants under this Act, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Under Secretary. The Under Secretary shall issue a final rule establishing the procedures not later than 90 days after the date of enactment of this Act.

SEC. 413. RAIL SECURITY RESEARCH AND DEVELOPMENT.

(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Under Secretary of Homeland Security for Border and Transportation Security, in conjunction with the Secretary of Transportation, shall carry out a research and development program for the purpose of improving freight and intercity passenger rail security that may include research and development projects to—

(1) reduce the vulnerability of passenger trains, stations, and equipment to explosives and hazardous chemical, biological, and radioactive substances;

(2) test new emergency response techniques and technologies;

(3) develop improved freight technologies, including—

(A) technologies for sealing rail cars;

(B) automatic inspection of rail cars;

(C) communication-based train controls; and

(D) emergency response training;

(4) test wayside detectors that can detect tampering with railroad equipment;

(5) support enhanced security for the transportation of hazardous materials by rail, including—

(A) technologies to detect a breach in a tank car and transmit information about the integrity of tank cars to the train crew;

(B) research to improve tank car integrity, with a focus on tank cars that carry high hazard materials (as defined in section 411(g) of this Act; and

(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety; and

(6) other projects recommended in the report required by section 402.

(b) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Under Secretary of Homeland Security for Border and Transportation Security shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department and the Department of Transportation. The Under Secretary of Homeland Security for Border and Transportation Security shall carry out any research and development project authorized by this section through a reimbursable agreement with the Secretary of Transportation if the Secretary of Transportation—

(1) is already sponsoring a research and development project in a similar area; or

(2) has a unique facility or capability that would be useful in carrying out the project.

(c) ACCOUNTABILITY.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this Act and the priorities and other criteria developed by the Under Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $50,000,000 in each of fiscal years 2005 and 2006 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 414. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENTS.

(a) TRACK STANDARDS.—Within 90 days after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) require each track owner using continuous welded rail track to include procedures (in its procedures filed with the Administration pursuant to section 213.119 of title 49, Code of Federal Regulations) to improve the identification of cracks in rail joint bars;

(2) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the inspectors' areas of responsibility and require that inspectors use those programs when conducting track inspections; and

(3) establish a program to periodically review continuous welded rail joint bar inspection data from railroads and Administration track inspectors and, whenever the Administration determines that it is necessary or appropriate, require railroads to increase the frequency or improve the methods of inspection of joint bars in continuous welded rail.

(b) TANK CAR STANDARDS.—The Federal Railroad Administration shall—

(1) within 1 year after the date of enactment of this Act, validate the predictive model it is developing to quantify the relevant dynamic forces acting on railroad tank cars under accident conditions; and

(2) within 18 months after the date of enactment of this Act, initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars.

(c) OLDER TANK CAR IMPACT RESISTANCE ANALYSIS AND REPORT.—Within 2 years after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989; and

(2) transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure with recommendations for measures to eliminate or mitigate the risk of catastrophic failure.

SEC. 415. NORTHERN BORDER RAIL PASSENGER REPORT.

Within 180 days after the date of enactment of this Act, the Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the heads of other appropriate Federal departments and agencies and the National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that contains—

(1) a description of the current system for screening passengers and baggage on passenger rail service between the United States and Canada;

(2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in ''The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America'', dated January 18, 2001;

(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the ''Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States'', dated April 2, 2003;

(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;

(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing prescreened passenger lists for rail passengers travelling between the United States and Canada to the Department of Homeland Security;

(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers; and

(7) a draft of any changes in existing Federal law necessary to provide for pre-screening of such passengers and providing prescreened passenger lists to the Department of Homeland Security.

SEC. 416. REPORT REGARDING IMPACT ON SECURITY OF TRAIN TRAVEL IN COMMUNITIES WITHOUT GRADE SEPARATION.

(a) STUDY.—The Secretary of Homeland Security shall, in consultation with State and local government officials, conduct a study on the impact of blocked highway-railroad grade crossings on the ability of emergency responders, including ambulances and police, fire, and other emergency vehicles, to perform public safety and security duties in the event of a terrorist attack.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the findings of the study conducted under subsection (a) and recommendations for reducing the impact of blocked crossings on emergency response.

SEC. 417. WHISTLEBLOWER PROTECTION PROGRAM.

(a) IN GENERAL.—Subchapter A of chapter 201 of title 49, United States Code, is amended by inserting after section 20115 the following:

''§ 20116. Whistleblower protection for rail security matters

''(a) DISCRIMINATION AGAINST EMPLOYEE.—No rail carrier engaged in interstate or foreign commerce may discharge a railroad employee or otherwise discriminate against a railroad employee because the employee (or any person acting pursuant to a request of the employee)—

(1) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to a perceived threat to security; or

''(2) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding a perceived threat to security; or

''(3) refused to violate or assist in the violation of any law, rule or regulation related to rail security.

''(b) DISPUTE RESOLUTION.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved not later than 180 days after it is filed. If the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this subsection, the Board, division, delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than $20,000.

''(c) PROCEDURAL REQUIREMENTS.—Except as provided in subsection (b), the procedure set forth in section 42121(b)(2)(B) of this title, including the burdens of proof, applies to any complaint brought under this section.

''(d) ELECTION OF REMEDIES.—An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier.

''(e) DISCLOSURE OF IDENTITY.—

''(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section.

''(2) The Secretary shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 of title 49, United States Code, is amended by inserting after the item relating to section 20115 the following:

''20116. Whistleblower protection for rail security matters.''.

SA 3903. Mr. STEVENS (for himself, Mr. INOUYE, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 115, strike line 15 and all that follows through page 115, line 25.

SA 3904. Mr. STEVENS (for himself and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause, and insert the following:

SECTION 1. NATIONAL INTELLIGENCE DIRECTOR.

(a) INDEPENDENT ESTABLISHMENT.—There is a National Intelligence Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) INDIVIDUALS ELIGIBLE FOR NOMINATION.—Any individual nominated for appointment as National Intelligence Director shall have extensive national security expertise.

(c) PRINCIPAL DUTIES AND RESPONSIBILITIES.—The National Intelligence Director shall be the head of the National Counterterrorism Center and the coordinator of counterterrorism activities for programs and projects within the National Foreign Intelligence Program.

(d) SUPERVISION.—The National Intelligence Director shall report to the National Security Advisor on—

(1) the budget and programs of the National Counterterrorism Center;

(2) the activities of the Directorate of Intelligence of the National Counterterrorism Center under subsection (e);

(3) the planning and progress of joint counter-terrorism operations; and

(4) the coordination of activities across the National Foreign Intelligence Program on Counterterrorism activities.

(e) PRIMARY MISSIONS.—The primary missions of the National Counterterrorism Center shall be as follows:

(1) To develop and unify strategy for the civilian and military counterterrorism efforts of the United States Government.

(2) To integrate counterterrorism intelligence activities of the United States Government, both inside and outside the United States.

(3) To develop interagency counterterrorism plans, each of which shall—

(A) involve more than one department, agency, or element of the executive branch (unless otherwise directed by the President); and

(B) include the mission, objectives to be achieved, courses of action, parameters for such courses of action, coordination of agency strategic planning, recommendations for strategic planning, and assignment of departmental or agency responsibilities.

(4) To ensure that the collection of counterterrorism intelligence, and the conduct of counterterrorism operations, by the United States Government are informed by the analysis of all-source intelligence.

(f) DUTIES AND RESPONSIBILITIES OF NATIONAL INTELLIGENCE DIRECTOR.—Notwithstanding any other provision of law, at the direction of the President and the National Security Council, the National Intelligence Director shall—

(1) provide unified strategic direction for the civilian and military counterterrorism efforts of the United States Government and for the effective integration and deconfliction of counterterrorism intelligence and operations across agency boundaries, both inside and outside the United States;

(2) advise on the extent to which the counterterrorism program recommendations and budget proposals of the departments, agencies, and elements of the United States Government conform to the priorities established by the President and the National Security Council; and

(3) perform such other duties as the President or National Security Advisor may prescribe or are prescribed by law.

(g) ROLE OF DIRECTOR OF NATIONAL COUNTERTERRORISM CENTER IN CERTAIN APPOINTMENTS.—(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall consult with the National Intelligence Director before appointing an individual to fill the vacancy or recommending to the President an individual for nomination to fill the vacancy. If the Director does not concur in the recommendation, the head of the department or agency concerned may fill the vacancy or make the recommendation to the President (as the case may be) without the concurrence of the Director, but shall notify the President that the Director does not concur in the appointment or recommendation (as the case may be).

(2) Paragraph (1) applies to the following positions:

(A) The Director of the Counterterrorist Center of the Central Intelligence Agency.

(B) The Assistant Director of the Federal Bureau of Investigation in charge of the Counterterrorism Division.

(C) The Coordinator for Counterterrorism of the Department of State.

(h) DIRECTORATE OF INTELLIGENCE.—(1) The National Director of Intelligence shall establish and maintain within the National Counterterrorism Center a Directorate of Intelligence.

(2) The Directorate shall utilize the capabilities of the Terrorist Threat Integration Center and such other capabilities as the he considers appropriate.

(3) The Directorate shall have primary responsibility within the United States Government for analysis of terrorism and terrorist organizations from all sources of intelligence, whether collected inside or outside the United States.

(4) The Directorate shall—

(A) be the principal repository within the United States Government for all-source information on suspected terrorists, their organizations, and their capabilities;

(B) propose intelligence collection requirements for action by elements of the intelligence community inside and outside the United States;

(C) have primary responsibility within the United States Government for net assessments and warnings about terrorist threats, which assessments and warnings shall be based on a comparison of terrorist intentions and capabilities with assessed national vulnerabilities and countermeasures; and

(D) perform such other duties and functions as the Director of the National Counterterrorism Center may prescribe.

(i) DIRECTORATE OF PLANNING.—(1) The National Intelligence Director shall establish and maintain within the National Counterterrorism Center a Directorate of Planning.

(2) The Directorate shall have primary responsibility for developing interagency counterterrorism plans described in subsection (e)(3).

(3) The Directorate shall—

(A) provide guidance, and develop strategy and interagency plans, to counter terrorist activities based on policy objectives and priorities established by the National Security Council;

(B) develop interagency plans under subparagraph (A) utilizing information and recommendations obtained from personnel in other departments, agencies, and elements of the United States Government who have expertise in the priorities, functions, assets, programs, capabilities, and operations of such departments, agencies, and elements with respect to counterterrorism;

(C) assign responsibilities for counterterrorism operations to the Department of Defense, the Central Intelligence Agency, the Federal Bureau of Investigation, the Department of Homeland Security, and other departments and agencies of the United States Government, consistent with the authorities of such departments and agencies;

(D) monitor the implementation of operations assigned under subparagraph (C) and update interagency plans for such operations as necessary;

(E) report to the President and the National Intelligence Director on the compliance of the departments, agencies, and elements of the United States with the plans developed under subparagraph (A); and

(F) perform such other duties and functions as the President or the National Security Advisor may prescribe.

(4) The Directorate may not direct the execution of operations assigned under paragraph (3).

(j) STAFF.—(1) The National Intelligence Director may appoint deputy directors of the National Counterterrorism Center to oversee such portions of the operations of the Center as the National Intelligence Director considers appropriate.

(2) To assist in fulfilling the duties and responsibilities under this section, the National Intelligence Director shall employ in the National Counterterrorism Center a professional staff having an expertise in matters relating to such duties and responsibilities.

(3) In providing for a professional staff for the National Counterterrorism Center under paragraph (2), the National Intelligence Director may establish as positions in the excepted service such positions in the Center as the National Intelligence Director considers appropriate.

(4) The National Intelligence Director shall ensure that the analytical staff of the National Counterterrorism Center is composed primarily of experts from elements in the intelligence community and from such other personnel in the United States Government as the National Intelligence Director considers appropriate.

(5)(A) In order to meet the requirements in paragraph (4), the National Intelligence Director shall, from time to time—

(i) specify the transfers, assignments, and details of civilian personnel funded within the National Foreign Intelligence Program to the National Counterterrorism Center from any other element of the intelligence community that the National Intelligence Director considers appropriate; and

(ii) in the case of civilian personnel from a department, agency, or element of the United States Government and not funded within the National Foreign Intelligence Program, request the transfer, assignment, or detail of such civilian personnel from the department, agency, or other element concerned.

(B) The head of an element of the intelligence community shall promptly effectuate any transfer, assignment, or detail of civilian personnel specified by the National Intelligence Director under subparagraph (A)(i).

(C) The head of a department, agency, or element of the United States Government receiving a request for transfer, assignment, or detail of civilian personnel under subparagraph (A)(ii) shall, to the extent practicable, approve the request.

(6) Personnel employed in or assigned or detailed to the National Counterterrorism Center under this subsection shall be under the authority, direction, and control of the National Intelligence Director on all matters for which the Center has been assigned responsibility and for all matters related to the accomplishment of the missions of the Center.

(7) Performance evaluations of personnel assigned or detailed to the National Counterterrorism Center under this subsection shall be undertaken by the supervisors of such personnel at the Center.

(8) The supervisors of the staff of the National Counterterrorism Center may, with the approval of the National Intelligence Director, reward the staff of the Center for meritorious performance by the provision of such performance awards as the National Intelligence Director shall prescribe.

(9) The National Intelligence Director shall ensure that the staff of the National Counterterrorism Center has access to all databases maintained by the elements of the intelligence community that are relevant to the duties of the Center.

(k) SUPPORT AND COOPERATION OF OTHER AGENCIES.—(1) The elements of the intelligence community and the other departments, agencies, and elements of the United States Government shall support, assist, and cooperate with the National Counterterrorism Center in carrying out its missions under this section.

(2) The support, assistance, and cooperation of a department, agency, or element of the United States Government under this subsection shall include, but not be limited to—

(A) the implementation of interagency plans for operations, whether foreign or domestic, that are developed by the National Counterterrorism Center in a manner consistent with the laws and regulations of the United States and consistent with the limitation in subsection (i)(4);

(B) cooperative work with the National Intelligence Director of the National Counterterrorism Center to ensure that ongoing operations of such department, agency, or element do not conflict with joint operations planned by the Center;

(C) reports, upon request, to the National Intelligence Director on the progress of such department, agency, or element in implementing responsibilities assigned to such department, agency, or element through joint operations plans; and

(D) the provision to the analysts of the National Counterterrorism Center of electronic access in real time to information and intelligence collected by such department, agency, or element that is relevant to the missions of the Center.

(3) In the event of a disagreement between the National Intelligence Director and the head of a department, agency, or element of the United States Government on a plan developed or responsibility assigned by the National Counterterrorism Center under this subsection, the National Intelligence Director may either accede to the head of the department, agency, or element concerned or notify the National Security Advisor of the necessity of resolving the disagreement.

SEC. 2. NATIONAL INTELLIGENCE CENTERS.

(a) NATIONAL INTELLIGENCE CENTERS.—(1) The National Intelligence Director may establish one or more centers, at the direction of the President and with the concurrence of the Congress to address intelligence priorities established by the National Security Council. Each such center shall be known as a ''national intelligence center''.

(2) Each national intelligence center shall be assigned an area of intelligence responsibility.

(3) National intelligence centers shall be established at the direction of the President, as prescribed by law, or upon the initiative of the National Intelligence Director.

(b) ESTABLISHMENT OF CENTERS.—(1) In establishing a national intelligence center, the National Intelligence Director shall assign lead responsibility for administrative support for such center to an element of the intelligence community selected by the Director for that purpose.

(2) The Director shall determine the structure and size of each national intelligence center.

(3) The Director shall notify Congress of the establishment of each national intelligence center before the date of the establishment of such center.

(c) DIRECTORS OF CENTERS.—(1) Each national intelligence center shall have as its head a Director who shall be appointed by the National Intelligence Director for that purpose.

(2) The Director of a national intelligence center shall serve as the principal adviser to the National Intelligence Director on intelligence matters with respect to the area of intelligence responsibility assigned to the center.

(3) In carrying out duties under paragraph (2), the Director of a national intelligence center shall—

(A) manage the operations of the center;

(B) coordinate the provision of administration and support by the element of the intelligence community with lead responsibility for the center under subsection (b)(1);

(C) submit budget and personnel requests for the center to the National Intelligence Director;

(D) seek such assistance from other departments, agencies, and elements of the United States Government as is needed to fulfill the mission of the center; and

(E) advise the National Intelligence Director of the information technology, personnel, and other requirements of the center for the performance of its mission.

(4) The National Intelligence Director shall ensure that the Director of a national intelligence center has sufficient authority, direction, and control to effectively accomplish the mission of the center.

(d) MISSION OF CENTERS.—Pursuant to the direction of the National Intelligence Director, the Director of a national intelligence center shall, in the area of intelligence responsibility assigned to the center by the Director pursuant to intelligence priorities established by the National Security Council—

(1) have primary responsibility for providing all-source analysis of intelligence based upon foreign intelligence gathered both abroad and domestically;

(2) have primary responsibility for identifying and proposing to the National Intelligence Director intelligence collection and analysis requirements;

(3) have primary responsibility for net assessments and warnings;

(4) ensure that appropriate officials of the United States Government and other appropriate officials have access to a variety of intelligence assessments and analytical views; and

(5) perform such other duties as the National Intelligence Director shall specify.

(e) INFORMATION SHARING.—(1) The National Intelligence Director shall ensure that the Directors of the national intelligence centers and the other elements of the intelligence community undertake appropriate sharing of intelligence analysis and plans for operations in order to facilitate the activities of the centers.

(2) In order to facilitate information sharing under paragraph (1), the Directors of the national intelligence centers shall report directly to the National Intelligence Director regarding their activities under this section.

(f) STAFF.—(1) In providing for a professional staff for a national intelligence center, the National Intelligence Director may establish as positions in the excepted service such positions in the center as the National Intelligence Director considers appropriate.

(2)(A) The National Intelligence Director shall, from time to time—

(i) specify the transfers, assignments, and details of civilian personnel funded within the National Foreign Intelligence Program to a national intelligence center from any other element of the intelligence community that the National Intelligence Director considers appropriate; and

(ii) in the case of civilian personnel from a department, agency, or element of the United States Government not funded within the National Foreign Intelligence Program, request the transfer, assignment, or detail of such civilian personnel from the department, agency, or other element concerned.

(B)(i) The head of an element of the intelligence community shall promptly effectuate

any transfer, assignment, or detail of civilian personnel specified by the National Intelligence Director under subparagraph (A)(i).

(ii) The head of a department, agency, or element of the United States Government receiving a request for transfer, assignment, or detail of civilian personnel under subparagraph (A)(ii) shall, to the extent practicable, approve the request.

(3) Civilian personnel employed in or assigned or detailed to a national intelligence center under this subsection shall be under the authority, direction, and control of the Director of the center on all matters for which the center has been assigned responsibility and for all matters related to the accomplishment of the mission of the center.

(4) Performance evaluations of personnel assigned or detailed to a national intelligence center under this subsection shall be undertaken by the supervisors of such civilian personnel at the center.

(5) The supervisors of the staff of a national center may, with the approval of the National Intelligence Director, reward the staff of the center for meritorious performance by the provision of such performance awards as the National Intelligence Director shall prescribe.

(6) The National Intelligence Director may delegate to the Director of a national intelligence center any responsibility, power, or authority of the National Intelligence Director under paragraphs (1) through (5).

(7) The Director of a national intelligence center may recommend to the National Intelligence Director the reassignment to the home element concerned of any personnel previously assigned or detailed to the center from another element of the intelligence community.

(g) TERMINATION.—The National Intelligence Director, in coordination with the President and Congress, may terminate a national intelligence center if it is determined that the center is no longer required to meet an intelligence priority established by the National Security Council.

SEC. 3. TRANSFER OF TERRORIST THREAT INTEGRATION CENTER.

The Terrorist Threat Integration Center is transferred to the National Counterterrorism Center. All functions and activities discharged by the Terrorist Threat Integration Center as of the date of the enactment of this Act are transferred to the National Counterterrorism Center.

SEC. 4. FUTURE ACTIVITIES.

The President shall submit to the Congress, not later than 180 days after the date of the enactment of this Act, recommended legislation for further reforming the intelligence community. The recommended legislation may provide additional responsibilities for the National Intelligence Director.

SA 3905. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —MARITIME TRANSPORTATION SECURITY

SEC. —01. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Maritime Transportation Security Act of 2004''.

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Sec. —01. Short title; table of contents
Sec. —02. Enforcement; pier and wharf security costs.
Sec. —03. Security at foreign ports.
Sec. —04. Federal and State commercial maritime transportation training.
Sec. —05. Transportation worker background investigation programs.
Sec. —06. Report on cruise ship security.
Sec. —07. Maritime transportation security plan grants.
Sec. —08. Report on design of maritime security grant programs.
Sec. —09. Effective date.

SEC. —02. ENFORCEMENT; PIER AND WHARF SECURITY COSTS.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended—

(1) by redesignating the second section 70118 (relating to firearms, arrests, and seizure of property), as added by section 801(a) of the Coast Guard and Maritime Transportation Act of 2004, as section 70119;

(2) by redesignating the first section 70119 (relating to enforcement by State and local officers), as added by section 801(a) of the Coast Guard and Maritime Transportation Act of 2004, as section 70120;

(3) by redesignating the second section 70119 (relating to civil penalty), as redesignated by section 802(a)(1) of the Coast Guard and Maritime Transportation Act of 2004, as section 70123; and

(4) by inserting after section 70120 the following:

''§ 70121. Enforcement by injunction or withholding of clearance

''(a) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of this chapter or of regulations issued hereunder, for cause shown.

''(b) WITHHOLDING OF CLEARANCE.—

''(1) If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty or fine under section 70119, or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty under section 70119, the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

''(2) Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.

''§ 70122. Security of piers and wharfs

''(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall require imported merchandise, excluding merchandise entered temporarily under bond, remaining on the wharf or pier onto which it was unladen for more than 7 calendar days without entry being made to be removed from the wharf or pier and deposited in the public stores, a general order warehouse, or a centralized examination station where it shall be inspected for determination of contents, and thereafter a permit for its delivery may be granted.

''(b) PENALTY.—The Secretary may impose an administrative penalty of $5,000 on the importer for each bill of lading for general order merchandise remaining on a wharf or pier in violation of subsection (a), except that no penalty shall be imposed if the violation was a result of force majeure.''.

(b) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the items following the item relating to section 70116 and inserting the following:

''70117. In rem liability for civil penalties and certain costs
''70118. Withholding of clearance
''70119. Firearms, arrests, and seizure of property
''70120. Enforcement by State and local officers
''70121. Enforcement by injunction or withholding of clearance
''70122. Security of piers and wharfs
''70123. Civil penalty''.

(2) Section 70117(a) of title 46, United States Code, is amended by striking ''section 70120'' and inserting ''section 70123''.

(3) Section 70118(a) of such title is amended by striking ''under section 70120,'' and inserting ''under that section,''.

SEC. —03. SECURITY AT FOREIGN PORTS.

(a) IN GENERAL.—Section 70109 of title 46, United States Code, is amended—

(1) by striking ''The Secretary,'' in subsection (b) and inserting ''The Administrator of the Maritime Administration,''; and

(2) by adding at the end the following:

''(c) FOREIGN ASSISTANCE PROGRAMS.—The Administrator of the Maritime Administration, in coordination with the Secretary of State, shall identify foreign assistance programs that could facilitate implementation of port security antiterrorism measures in foreign countries. The Administrator and the Secretary shall establish a program to utilize those programs that are capable of implementing port security antiterrorism measures at ports in foreign countries that the Secretary finds, under section 70108, to lack effective antiterrorism measures.''.

(b) REPORT ON SECURITY AT PORTS IN THE CARIBBEAN BASIN.—Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives a report on the security of ports in the Caribbean Basin. The report shall include the following:

(1) An assessment of the effectiveness of the measures employed to improve security at ports in the Caribbean Basin and recommendations for any additional measures to improve such security.

(2) An estimate of the number of ports in the Caribbean Basin that will not be secured by July 2004, and an estimate of the financial impact in the United States of any action taken pursuant to section 70110 of title 46, United States Code, that affects trade between such ports and the United States.

(3) An assessment of the additional resources and program changes that are necessary to maximize security at ports in the Caribbean Basin.

SEC. —04. FEDERAL AND STATE COMMERCIAL MARITIME TRANSPORTATION TRAINING.

Section 109 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70101 note) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following:

''(c) FEDERAL AND STATE COMMERCIAL MARITIME TRANSPORTATION TRAINING.—The Secretary of Transportation shall establish a curriculum, to be incorporated into the curriculum developed under subsection (a)(1), to educate and instruct Federal and State officials on commercial maritime and intermodal transportation. The curriculum shall be designed to familiarize those officials with commercial maritime transportation in order to facilitate performance of their commercial maritime and intermodal transportation security responsibilities. In developing the standards for the curriculum, the

Secretary shall consult with each agency in the Department of Homeland Security with maritime security responsibilities to determine areas of educational need. The Secretary shall also coordinate with the Federal Law Enforcement Training Center in the development of the curriculum and the provision of training opportunities for Federal and State law enforcement officials at appropriate law enforcement training facilities.''.

SEC. —05. TRANSPORTATION WORKER BACKGROUND INVESTIGATION PROGRAMS.

Within 120 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the Secretary of Transportation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure—

(1) making recommendations (including legislative recommendations, if appropriate or necessary) for harmonizing, combining, or coordinating requirements, procedures, and programs for conducting background checks under section 70105 of title 46, United States Code, section 5103a(c) of title 49, United States Code, section 44936 of title 49, United States Code, and other provisions of Federal law or regulations requiring background checks for individuals engaged in transportation or transportation-related activities;

(2) setting forth a detailed timeline for implementation of such harmonization, combination, or coordination;

(3) setting forth a plan with a detailed timeline for the implementation of the Transportation Worker Identification Credential in seaports;

(4) making recommendations for a waiver and appeals process for issuing a transportation security card to an individual found otherwise ineligible for such a card under section 70105(c)(2) and (3) of title 46, United States Code, along with recommendations on the appropriate level of funding for such a process; and

(5) making recommendations for how information collected through the Transportation Worker Identification Credential program may be shared with port officials, terminal operators, and other officials responsible for maintaining access control while also protecting workers' privacy.

SEC. —06. REPORT ON CRUISE SHIP SECURITY.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the security of ships and facilities used in the cruise line industry.

(b) CONTENT.—The report required by subsection (a) shall include an assessment of security measures employed by the cruise line industry, including the following:

(1) An assessment of the security of cruise ships that originate at ports in foreign countries.

(2) An assessment of the security of ports utilized for cruise ship docking.

(3) The costs incurred by the cruise line industry to carry out the measures required by the Maritime Transportation Security Act of 2002 (Public Law 107–295; 116 Stat. 2064) and the amendments made by that Act.

(4) The costs of employing canine units and hand-held explosive detection wands at ports, including the costs of screening passengers and baggage with such methods.

(5) An assessment of security measures taken by the Secretary of Homeland Security to increase the security of the cruise line industry and the costs incurred to carry out such security measures.

(6) A description of the need for and the feasibility of deploying explosive detection systems and canine units at ports used by cruise ships and an assessment of the cost of such deployment.

(7) A summary of the fees paid by passengers of cruise ships that are used for inspections and the feasibility of creating a dedicated passenger vessel security fund from such fees.

(8) The recommendations of the Secretary, if any, for measures that should be carried out to improve security of cruise ships that originate at ports in foreign countries.

(9) The recommendations of the Secretary, if any, on the deployment of further measures to improve the security of cruise ships, including explosive detection systems, canine units, and the use of technology to improve baggage screening, and an assessment of the cost of implementing such measures.

SEC. —07. MARITIME TRANSPORTATION SECURITY PLAN GRANTS.

Section 70107(a) of title 46, United States Code, is amended to read as follows:

''(a) IN GENERAL.—The Under Secretary of Homeland Security for Border and Transportation Security shall establish a grant program for making a fair and equitable allocation of funds to implement Area Maritime Transportation Security Plans and to help fund compliance with Federal security plans among port authorities, facility operators, and State and local agencies required to provide security services. Grants shall be made on the basis of threat-based risk assessments, consistent with the national strategy for transportation security, subject to review and comment by the appropriate Federal Maritime Security Coordinators and the Maritime Administration. The grant program shall take into account national economic and strategic defense concerns and shall be coordinated with the Director of the Office of Domestic Preparedness to ensure that the grant process is consistent with other Department of Homeland Security grant programs.''.

SEC. —08. REPORT ON DESIGN OF MARITIME SECURITY GRANT PROGRAMS.

Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the design of maritime security grant programs that includes recommendations on—

(1) whether the grant programs should be discretionary or formula based and why;

(2) requirements for ensuring that Federal funds will not be substituted for grantee funds;

(3) targeting requirements to ensure that funding is directed in a manner that reflects a national, risk-based perspective on priority needs, the fiscal capacity of recipients to fund the improvements without grant funds, and an explicit analysis of the impact of minimum funding to small ports that could affect funding available for the most strategic or economically important ports;

(4) matching requirements to ensure that Federal funds provide an incentive to grantees for the investment of their own funds in the improvements financed in part by Federal funds; and

(5) the need for multiple year funding to provide funds for multiple year grant agreements.

SEC. —09. EFFECTIVE DATE.

Notwithstanding any other provision of this Act, this title takes effect on the date of enactment of this Act.

SA 3906. Mr. MCCAIN (for himself, Mr. LIEBERMAN, and Mr. BAYH) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—THE ROLE OF DIPLOMACY, FOREIGN AID, AND THE MILITARY IN THE WAR ON TERRORISM

SEC. ___01. FINDINGS.

Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Long-term success in the war on terrorism demands the use of all elements of national power, including diplomacy, military action, intelligence, covert action, law enforcement, economic policy, foreign aid, public diplomacy, and homeland defense.

(2) To win the war on terrorism, the United States must assign to economic and diplomatic capabilities the same strategic priority that is assigned to military capabilities.

(3) The legislative and executive branches of the Government of the United States must commit to robust, long-term investments in all of the tools necessary for the foreign policy of the United States to successfully accomplish the goals of the United States.

(4) The investments referred to in paragraph (3) will require increased funding to United States foreign affairs programs in general, and to priority areas as described in this title in particular.

SEC. ___02. TERRORIST SANCTUARIES.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Complex terrorist operations require locations that provide such operations sanctuary from interference by government or law enforcement personnel.

(2) A terrorist sanctuary existed in Afghanistan before September 11, 2001.

(3) The terrorist sanctuary in Afghanistan provided direct and indirect value to members of al Qaeda who participated in the terrorist attacks on the United States on September 11, 2001, and in other terrorist operations.

(4) Terrorist organizations have fled to some of the least governed and most lawless places in the world to find sanctuary.

(5) During the 21st century, terrorists are focusing on remote regions and failing states as locations to seek sanctuary.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States Government should identify and prioritize locations that are or that could be used as terrorist sanctuaries;

(2) the United States Government should have a realistic strategy that includes the use of all elements of national power to keep possible terrorists from using a location as a sanctuary; and

(3) the United States Government should reach out, listen to, and work with countries in bilateral and multilateral fora to prevent locations from becoming sanctuaries and to prevent terrorists from using locations as sanctuaries.

SEC. ___03. ROLE OF PAKISTAN IN COUNTERING TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The Government of Pakistan has a critical role to perform in the struggle against Islamist terrorism.

(2) The endemic poverty, widespread corruption, and frequent ineffectiveness of government in Pakistan create opportunities for Islamist recruitment.

(3) The poor quality of education in Pakistan is particularly worrying, as millions of families send their children to madrassahs, some of which have been used as incubators for violent extremism.

(4) The vast unpoliced regions in Pakistan make the country attractive to extremists seeking refuge and recruits and also provide a base for operations against coalition forces in Afghanistan.

(5) A stable Pakistan, with a moderate, responsible government that serves as a voice of tolerance in the Muslim world, is critical to stability in the region.

(6) There is a widespread belief among the people of Pakistan that the United States has long treated them as allies of convenience.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should make a long-term commitment to fostering a stable and secure future in Pakistan, as long as its leaders remain committed to combatting extremists and extremism, ending the proliferation of weapons of mass destruction, securing its borders, and gaining internal control of all its territory while pursuing policies that strengthen civil society, promote moderation and advance socio-economic progress;

(2) Pakistan should make sincere efforts to transition to democracy, enhanced rule of law, and robust civil institutions, and United States policy toward Pakistan should promote such a transition;

(3) the United States assistance to Pakistan should be maintained at the overall levels requested by the President for fiscal year 2005;

(4) the United States should support the Government of Pakistan with a comprehensive effort that extends from military aid to support for better education;

(5) the United States Government should devote particular attention and resources to assisting in the improvement of the quality of education in Pakistan; and

(6) the Government of Pakistan should devote additional resources of such Government to expanding and improving modern public education in Pakistan.

SEC. ___04. AID TO AFGHANISTAN.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The United States and its allies in the international community have made progress in promoting economic and political reform within Afghanistan, including the establishment of a central government with a democratic constitution, a new currency, and a new army, the increase of personal freedom, and the elevation of the standard of living of many Afghans.

(2) A number of significant obstacles must be overcome if Afghanistan is to become a secure and prosperous democracy, and such a transition depends in particular upon—

(A) improving security throughout the country;

(B) disarming and demobilizing militias;

(C) curtailing the rule of the warlords;

(D) promoting equitable economic development;

(E) protecting the human rights of the people of Afghanistan;

(F) holding elections for public office; and

(G) ending the cultivation and trafficking of narcotics.

(3) The United States and the international community must make a long-term commitment to addressing the deteriorating security situation in Afghanistan and the burgeoning narcotics trade, endemic poverty, and other serious problems in Afghanistan in order to prevent that country from relapsing into a sanctuary for international terrorism.

(b) SENSE OF CONGRESS.—

(1) ACTIONS FOR AFGHANISTAN.—It is the sense of Congress that the Government of the United States should take, with respect to Afghanistan, the following actions:

(A) Working with other nations to obtain long-term security, political, and financial commitments and fulfillment of pledges to the Government of Afghanistan to accomplish the objectives of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.), especially to ensure a secure, democratic, and prosperous Afghanistan that respects the rights of its citizens and is free of international terrorist organizations.

(B) Using the voice and vote of the United States in relevant international organizations, including the North Atlantic Treaty Organization and the United Nations Security Council, to strengthen international commitments to assist the Government of Afghanistan in enhancing security, building national police and military forces, increasing counter-narcotics efforts, and expanding infrastructure and public services throughout the country.

(C) Taking appropriate steps to increase the assistance provided under programs of the Department of State and the United States Agency for International Development throughout Afghanistan and to increase the number of personnel of those agencies in Afghanistan as necessary to support the increased assistance.

(2) REVISION OF AFGHANISTAN FREEDOM SUPPORT ACT OF 2002.—It is the sense of Congress that Congress should, in consultation with the President, update and revise, as appropriate, the Afghanistan Freedom Support Act of 2002.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President for each of the fiscal years 2005 through 2009 such sums as may be necessary to provide assistance for Afghanistan, unless otherwise authorized by Congress, for the following purposes:

(A) For development assistance under sections 103, 105, and 106 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151a, 2151c, and 2151d).

(B) For children's health programs under the Child Survival and Health Program Fund under section 104 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b).

(C) For economic assistance under the Economic Support Fund under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.).

(D) For international narcotics and law enforcement under section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291).

(E) For nonproliferation, anti-terrorism, demining, and related programs.

(F) For international military education and training under section 541 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347).

(G) For Foreign Military Financing Program grants under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

(H) For peacekeeping operations under section 551 of the Foreign Assistance Act of 1961 (22 U.S.C. 2348).

(2) CONDITIONS FOR ASSISTANCE.—Assistance provided by the President under this subsection—

(A) shall be consistent with the Afghanistan Freedom Support Act of 2002; and

(B) shall be provided with reference to the ''Securing Afghanistan's Future'' document published by the Government of Afghanistan.

SEC. ___05. THE UNITED STATES-SAUDI ARABIA RELATIONSHIP.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Despite a long history of friendly relations with the United States, Saudi Arabia has been a problematic ally in combating Islamist extremism.

(2) Cooperation between the Governments of the United States and Saudi Arabia has traditionally been carried out in private.

(3) Counterterrorism cooperation between the Governments of the United States and Saudi Arabia has improved significantly since the terrorist bombing attacks in Riyadh, Saudi Arabia, on May 12, 2003, especially cooperation to combat terror groups operating inside Saudi Arabia.

(4) The Government of Saudi Arabia is now pursuing al Qaeda within Saudi Arabia and has begun to take some modest steps toward internal reform.

(5) Nonetheless, the Government of Saudi Arabia has been at times unresponsive to United States requests for assistance in the global war on Islamist terrorism.

(6) The Government of Saudi Arabia has not done all it can to prevent nationals of Saudi Arabia from funding and supporting extremist organizations in Saudi Arabia and other countries.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the problems in the relationship between the United States and Saudi Arabia must be confronted openly, and the opportunities for cooperation between the countries must be pursued openly by those governments;

(2) both governments must build a relationship that they can publicly defend and that is based on other national interests in addition to their national interests in oil;

(3) this relationship should include a shared commitment to political and economic reform in Saudi Arabia;

(4) this relationship should also include a shared interest in greater tolerance and respect for other cultures in Saudi Arabia and a commitment to fight the violent extremists who foment hatred in the Middle East; and

(5) the Government of Saudi Arabia must do all it can to prevent nationals of Saudi Arabia from funding and supporting extremist organizations in Saudi Arabia and other countries.

SEC. ___06. EFFORTS TO COMBAT ISLAMIST TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) While support for the United States has plummeted in the Islamic world, many negative views are uninformed, at best, and, at worst, are informed by coarse stereotypes and caricatures.

(2) Local newspapers in Islamic countries and influential broadcasters who reach Islamic audiences through satellite television often reinforce the idea that the people and Government of the United States are anti-Muslim.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Government of the United States should offer an example of moral leadership in the world that includes a commitment to

treat all people humanely, abide by the rule of law, and be generous to the people and governments of other countries;

(2) the United States should cooperate with governments of Islamic countries to foster agreement on respect for human dignity and opportunity, and to offer a vision of a better future that includes stressing life over death, individual educational and economic opportunity, widespread political participation, contempt for indiscriminate violence, respect for the rule of law, openness in discussing differences, and tolerance for opposing points of view;

(3) the United States should encourage reform, freedom, democracy, and opportunity for Arabs and Muslims and promote moderation in the Islamic world; and

(4) the United States should work to defeat extremist ideology in the Islamic world by providing assistance to moderate Arabs and Muslims to combat extremist ideas.

SEC. ___07. UNITED STATES POLICY TOWARD DICTATORSHIPS.

(a) FINDING.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that short-term gains enjoyed by the United States through cooperation with repressive dictatorships have often been outweighed by long-term setbacks for the stature and interests of the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) United States foreign policy should promote the value of life and the importance of individual educational and economic opportunity, encourage widespread political participation, condemn indiscriminate violence, and promote respect for the rule of law, openness in discussing differences among people, and tolerance for opposing points of view; and

(2) the United States Government must prevail upon the governments of all predominantly Muslim countries, including those that are friends and allies of the United States, to condemn indiscriminate violence, promote the value of life, respect and promote the principles of individual education and economic opportunity, encourage widespread political participation, and promote the rule of law, openness in discussing differences among people, and tolerance for opposing points of view.

SEC. ___08. PROMOTION OF UNITED STATES VALUES THROUGH BROADCAST MEDIA.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Although the United States has demonstrated and promoted its values in defending Muslims against tyrants and criminals in Somalia, Bosnia, Kosovo, Afghanistan, and Iraq, this message is not always clearly presented and understood in the Islamic world.

(2) If the United States does not act to vigorously define its message in the Islamic world, the image of the United States will be defined by Islamic extremists who seek to demonize the United States.

(3) Recognizing that many Arab and Muslim audiences rely on satellite television and radio, the United States Government has launched promising initiatives in television and radio broadcasting to the Arab world, Iran, and Afghanistan.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States must do more to defend and promote its values and ideals to the broadest possible audience in the Islamic world;

(2) United States efforts to defend and promote these values and ideals are beginning to ensure that accurate expressions of these values reach large audiences in the Islamic world and should be robustly supported;

(3) the United States Government could and should do more to engage the Muslim world in the struggle of ideas; and

(4) the United States Government should more intensively employ existing broadcast media in the Islamic world as part of this engagement.

(c) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to the President for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out United States Government broadcasting activities under the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.), the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.), and the Foreign Affairs Reform and Restructuring Act of 1998 (22 U.S.C. 6501 et seq.), and to carry out other activities under this section consistent with the purposes of such Acts, unless otherwise authorized by Congress.

SEC. ___09. EXPANSION OF UNITED STATES SCHOLARSHIP AND EXCHANGE PROGRAMS IN THE ISLAMIC WORLD.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Exchange, scholarship, and library programs are effective ways for the United States Government to promote internationally the values and ideals of the United States.

(2) Exchange, scholarship, and library programs can expose young people from other countries to United States values and offer them knowledge and hope.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should expand its exchange, scholarship, and library programs, especially those that benefit people in the Arab and Muslim worlds.

(c) AUTHORITY TO EXPAND EDUCATIONAL AND CULTURAL EXCHANGES.—The President is authorized to substantially expand the exchange, scholarship, and library programs of the United States, especially such programs that benefit people in the Arab and Muslim worlds.

(d) AVAILABILITY OF FUNDS.—Of the amounts authorized to be appropriated for educational and cultural exchange programs in each of the fiscal years 2005 through 2009, there is authorized to be made available to the Secretary of State such sums as may be necessary to carry out programs under this section, unless otherwise authorized by Congress.

SEC. ___10. INTERNATIONAL YOUTH OPPORTUNITY FUND.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Education that teaches tolerance, the dignity and value of each individual, and respect for different beliefs is a key element in any global strategy to eliminate Islamist terrorism.

(2) Education in the Middle East about the world outside that region is weak.

(3) The United Nations has rightly equated literacy with freedom.

(4) The international community is moving toward setting a concrete goal of reducing by half the illiteracy rate in the Middle East by 2010, through the implementation of education programs targeting women and girls and programs for adult literacy, and by other means.

(5) To be effective, efforts to improve education in the Middle East must also include—

(A) support for the provision of basic education tools, such as textbooks that translate more of the world's knowledge into local languages and local libraries to house such materials; and

(B) more vocational education in trades and business skills.

(6) The Middle East can benefit from some of the same programs to bridge the digital divide that already have been developed for other regions of the world.

(b) INTERNATIONAL YOUTH OPPORTUNITY FUND.—

(1) ESTABLISHMENT.—The President shall establish an International Youth Opportunity Fund to provide financial assistance for the improvement of public education in the Middle East.

(2) INTERNATIONAL PARTICIPATION.—The President shall seek the cooperation of the international community in establishing and generously supporting the Fund.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President for the establishment of the International Youth Opportunity Fund, in addition to any amounts otherwise available for such purpose, such sums as may be necessary for each of the fiscal years 2005 through 2009, unless otherwise authorized by Congress.

SEC. ___11. THE USE OF ECONOMIC POLICIES TO COMBAT TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) While terrorism is not caused by poverty, breeding grounds for terrorism are created by backward economic policies and repressive political regimes.

(2) Policies that support economic development and reform also have political implications, as economic and political liberties are often linked.

(3) The United States is working toward creating a Middle East Free Trade Area by 2013 and implementing a free trade agreement with Bahrain, and free trade agreements exist between the United States and Israel and the United States and Jordan.

(4) Existing and proposed free trade agreements between the United States and Islamic countries are drawing interest from other countries in the Middle East region, and Islamic countries can become full participants in the rules-based global trading system, as the United States considers lowering its barriers to trade with the poorest Arab countries.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) a comprehensive United States strategy to counter terrorism should include economic policies that encourage development, open societies, and opportunities for people to improve the lives of their families and to enhance prospects for their children's future;

(2) one element of such a strategy should encompass the lowering of trade barriers with the poorest countries that have a significant population of Arab or Muslim individuals;

(3) another element of such a strategy should encompass United States efforts to promote economic reform in countries that have a significant population of Arab or Muslim individuals, including efforts to integrate such countries into the global trading system; and

(4) given the importance of the rule of law in promoting economic development and attracting investment, the United States should devote an increased proportion of its assistance to countries in the Middle East to the promotion of the rule of law.

SEC. ___12. MIDDLE EAST PARTNERSHIP INITIATIVE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of the fiscal years 2005 through 2009 such sums as may be necessary for the Middle East Partnership Initiative, unless otherwise authorized by Congress.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, given the importance of the rule of law and economic reform to development in the Middle East, a significant portion of the funds authorized to be appropriated under subsection (a) should be made available to promote the rule of law in the Middle East.

SEC. ___13. COMPREHENSIVE COALITION STRATEGY FOR FIGHTING TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Almost every aspect of the counterterrorism strategy of the United States relies on international cooperation.

(2) Since September 11, 2001, the number and scope of United States Government contacts with foreign governments concerning counterterrorism have expanded significantly, but such contacts have often been ad hoc and not integrated as a comprehensive and unified approach.

(b) INTERNATIONAL CONTACT GROUP ON COUNTERTERRORISM.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that the President—

(A) should seek to engage the leaders of the governments of other countries in a process of advancing beyond separate and uncoordinated national counterterrorism strategies to develop with those other governments a comprehensive coalition strategy to fight Islamist terrorism; and

(B) to that end, should seek to establish an international counterterrorism policy contact group with the leaders of governments providing leadership in global counterterrorism efforts and governments of countries with sizable Muslim populations, to be used as a ready and flexible international means for discussing and coordinating the development of important counterterrorism policies by the participating governments.

(2) AUTHORITY.—The President is authorized to establish an international counterterrorism policy contact group with the leaders of governments referred to in paragraph (1) for purposes as follows:

(A) To develop in common with such other countries important policies and a strategy that address the various components of international prosecution of the war on terrorism, including policies and a strategy that address military issues, law enforcement, the collection, analysis, and dissemination of intelligence, issues relating to interdiction of travel by terrorists, counterterrorism-related customs issues, financial issues, and issues relating to terrorist sanctuaries.

(B) To address, to the extent (if any) that the President and leaders of other participating governments determine appropriate, such long-term issues as economic and political reforms that can contribute to strengthening stability and security in the Middle East.

SEC. ___14. TREATMENT OF FOREIGN PRISONERS.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Carrying out the global war on terrorism requires the development of policies with respect to the detention and treatment of captured international terrorists that are adhered to by all coalition forces.

(2) Article 3 of the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316) was specifically designed for cases in which the usual rules of war do not apply, and the minimum standards of treatment pursuant to such Article are generally accepted throughout the world as customary international law.

(b) POLICY.—The policy of the United States is as follows:

(1) It is the policy of the United States to treat all foreign persons captured, detained, interned or otherwise held in the custody of the United States (hereinafter ''prisoners'') humanely and in accordance with standards that the United States would consider legal if perpetrated by the enemy against an American prisoner.

(2) It is the policy of the United States that all officials of the United States are bound both in wartime and in peacetime by the legal prohibition against torture, cruel, inhuman or degrading treatment.

(3) If there is any doubt as to whether prisoners are entitled to the protections afforded by the Geneva Conventions, such prisoners shall enjoy the protections of the Geneva Conventions until such time as their status can be determined pursuant to the procedures authorized by Army Regulation 190–8, Section 1–6.

(4) It is the policy of the United States to expeditiously prosecute cases of terrorism or other criminal acts alleged to have been committed by prisoners in the custody of the United States Armed Forces at Guantanamo Bay, Cuba, in order to avoid the indefinite detention of prisoners, which is contrary to the legal principles and security interests of the United States.

(c) REPORTING.—The Department of Defense shall submit to the appropriate congressional committees:

(1) A quarterly report providing the number of prisoners who were denied Prisoner of War (POW) status under the Geneva Conventions and the basis for denying POW status to each such prisoner.

(2) A report setting forth—

(A) the proposed schedule for military commissions to be held at Guantanamo Bay, Cuba; and

(B) the number of individuals currently held at Guantanamo Bay, Cuba, the number of such individuals who are unlikely to face a military commission in the next six months, and each reason for not bringing such individuals before a military commission.

(3) All International Committee of the Red Cross reports, completed prior to the enactment of this Act, concerning the treatment of prisoners in United States custody at Guantanamo Bay, Cuba, Iraq, and Afghanistan. Such ICRC reports should be provided, in classified form, not later than 15 days after enactment of this Act.

(4) A report setting forth all prisoner interrogation techniques approved by officials of the United States.

(d) ANNUAL TRAINING REQUIREMENT.—The Department of Defense shall certify that all Federal employees and civilian contractors engaged in the handling or interrogating of prisoners have fulfilled an annual training requirement on the laws of war, the Geneva Conventions and the obligations of the United States under international humanitarian law.

(e) PROHIBITION ON TORTURE OR CRUEL, INHUMANE, OR DEGRADING TREATMENT OR PUNISHMENT.—

(1) IN GENERAL.—No prisoner shall be subject to torture or cruel, inhumane, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(2) RELATIONSHIP TO GENEVA CONVENTIONS.—Nothing in this section shall affect the status of any person under the Geneva Conventions or whether any person is entitled to the protections of the Geneva Conventions.

(f) RULES, REGULATIONS, AND GUIDELINES.—

(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary and the Director shall prescribe the rules, regulations, or guidelines necessary to ensure compliance with the prohibition in subsection (e)(1) by all personnel of the United States Government and by any person providing services to the United States Government on a contract basis.

(2) REPORT TO CONGRESS.—The Secretary and the Director shall submit to Congress the rules, regulations, or guidelines prescribed under paragraph (1), and any modifications to such rules, regulations, or guidelines—

(A) not later than 30 days after the effective date of such rules, regulations, guidelines, or modifications; and

(B) in a manner and form that will protect the national security interests of the United States.

(g) REPORTS ON POSSIBLE VIOLATIONS.—

(1) REQUIREMENT.—The Secretary and the Director shall each submit, on a timely basis and not less than twice each year, a report to Congress on the circumstances surrounding any investigation of a possible violation of the prohibition in subsection (e)(1) by United States Government personnel or by a person providing services to the United States Government on a contract basis.

(2) FORM OF REPORT.—A report required under paragraph (1) shall be submitted in a manner and form that—

(A) will protect the national security interests of the United States; and

(B) will not prejudice any prosecution of an individual involved in, or responsible for, a violation of the prohibition in subsection (e)(1).

(h) REPORT ON A COALITION APPROACH TOWARD THE DETENTION AND HUMANE TREATMENT OF CAPTURED TERRORISTS.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report describing the efforts of the United States Government to develop an approach toward the detention and humane treatment of captured international terrorists that will be adhered to by all countries that are members of the coalition against terrorism.

(i) DEFINITIONS.—In this section:

(1) CRUEL, INHUMANE, OR DEGRADING TREATMENT OR PUNISHMENT.—The term ''cruel, inhumane, or degrading treatment or punishment'' means the cruel, unusual, and inhumane treatment or punishment prohibited by the fifth amendment, eighth amendment, or fourteenth amendment to the Constitution.

(2) DIRECTOR.—The term ''Director'' means the National Intelligence Director.

(3) GENEVA CONVENTIONS.—The term ''Geneva Conventions'' means—

(A) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3114);

(B) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(C) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(D) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Defense.

(5) TORTURE.—The term ''torture'' has the meaning given that term in section 2340 of title 18, United States Code.

SEC. ___15. PROLIFERATION OF WEAPONS OF MASS DESTRUCTION.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Al Qaeda and other terror groups have tried to acquire or make weapons of mass destruction since 1994 or earlier.

(2) The United States doubtless would be a prime target for use of any such weapon by al Qaeda.

(3) Although the United States Government has supported the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs, nonproliferation experts continue to express deep concern about the adequacy of such efforts to secure weapons of mass destruction and related materials that still exist in Russia other countries of the former Soviet Union, and around the world.

(4) The cost of increased investment in the prevention of proliferation of weapons of mass destruction and related materials is greatly outweighed by the potentially catastrophic cost to the United States of the use of such weapons by terrorists.

(5) The Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs are the United States primary method of preventing the proliferation of weapons of mass destruction and related materials from Russia and the states of the former Soviet Union, but require further expansion, improvement, and resources.

(6) Better coordination is needed within the executive branch of government for the budget development, oversight, and implementation of the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs, and critical elements of such programs are operated by the Departments of Defense, Energy, and State.

(7) The effective implementation of the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs in the countries of the former Soviet Union is hampered by Russian behavior and conditions on the provision of assistance under such programs that are unrelated to bilateral cooperation on weapons dismantlement.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) maximum effort to prevent the proliferation of weapons of mass destruction and related materials, wherever such proliferation may occur, is warranted;

(2) the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs should be expanded, improved, accelerated, and better funded to address the global dimensions of the proliferation threat; and

(3) the Proliferation Security Initiative is an important counterproliferation program that should be expanded to include additional partners.

(c) COOPERATIVE THREAT REDUCTION, GLOBAL THREAT REDUCTION INITIATIVE, AND OTHER NONPROLIFERATION ASSISTANCE PROGRAMS.—In this section, the term ''Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs'' includes—

(1) the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 50 U.S.C. 2362 note);

(2) the activities for which appropriations are authorized by section 3101(a)(2) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1742);

(3) the Department of State program of assistance to science centers;

(4) the Global Threat Reduction Initiative of the Department of Energy; and

(5) a program of any agency of the Federal Government having the purpose of assisting any foreign government in preventing nuclear weapons, plutonium, highly enriched uranium, or other materials capable of sustaining an explosive nuclear chain reaction, or nuclear weapons technology from becoming available to terrorist organizations.

(d) STRATEGY AND PLAN.—

(1) STRATEGY.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress—

(A) a comprehensive strategy for expanding and strengthening the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs; and

(B) an estimate of the funding necessary to execute such strategy.

(2) PLAN.—The strategy required by paragraph (1) shall include a plan for securing the nuclear weapons and related materials that are the most likely to be acquired or sought by, and susceptible to becoming available to, terrorist organizations, including—

(A) a prioritized list of the most dangerous and vulnerable sites;

(B) measurable milestones for improving United States nonproliferation assistance programs;

(C) a schedule for achieving such milestones; and

(D) initial estimates of the resources necessary to achieve such milestones under such schedule.

SEC. ___16. FINANCING OF TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) While efforts to designate and freeze the assets of terrorist financiers have been relatively unsuccessful, efforts to target the relatively small number of al Qaeda financial facilitators have been valuable and successful.

(2) The death or capture of several important financial facilitators has decreased the amount of money available to al Qaeda, and has made it more difficult for al Qaeda to raise and move money.

(3) The capture of al Qaeda financial facilitators has provided a windfall of intelligence that can be used to continue the cycle of disruption.

(4) The United States Government has rightly recognized that information about terrorist money helps in understanding terror networks, searching them out, and disrupting their operations.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) a critical weapon in the effort to stop terrorist financing should be the targeting of terrorist financial facilitators by intelligence and law enforcement agencies; and

(2) efforts to track terrorist financing must be paramount in United States counter-terrorism efforts.

(c) REPORT ON TERRORIST FINANCING.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report evaluating the effectiveness of United States efforts to curtail the international financing of terrorism.

(2) CONTENTS.—The report required by paragraph (1) shall evaluate and make recommendations on—

(A) the effectiveness of efforts and methods to the identification and tracking of terrorist financing;

(B) ways to improve multinational and international governmental cooperation in this effort;

(C) ways to improve the effectiveness of financial institutions in this effort;

(D) the adequacy of agency coordination, nationally and internationally, including international treaties and compacts, in this effort and ways to improve that coordination; and

(E) recommendations for changes in law and additional resources required to improve this effort.

SEC. ___17. REPORT TO CONGRESS.

(a) REQUIREMENT FOR REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on the activities of the Government of the United States to carry out the provisions of this title.

(b) CONTENT.—The report required under this section shall include the following:

(1) TERRORIST SANCTUARIES.—A description of the strategy of the United States to address and, where possible, eliminate terrorist sanctuaries, including—

(A) a description of actual and potential terrorist sanctuaries, together with an assessment of the priorities of addressing and eliminating such sanctuaries;

(B) an outline of strategies for disrupting or eliminating the security provided to terrorists by such sanctuaries;

(C) a description of efforts by the United States Government to work with other countries in bilateral and multilateral fora to address or eliminate actual or potential terrorist sanctuaries and disrupt or eliminate the security provided to terrorists by such sanctuaries; and

(D) a description of long-term goals and actions designed to reduce the conditions that allow the formation of terrorist sanctuaries, such as supporting and strengthening host governments, reducing poverty, increasing economic development, strengthening civil society, securing borders, strengthening internal security forces, and disrupting logistics and communications networks of terrorist groups.

(2) SUPPORT FOR PAKISTAN.—A description of the efforts of the United States Government to support Pakistan and encourage moderation in that country, including—

(A) an examination of the desirability of establishing a Pakistan Education Fund to direct resources toward improving the quality of secondary schools in Pakistan, and an examination of the efforts of the Government of Pakistan to fund modern public education;

(B) recommendations on the funding necessary to provide various levels of educational support;

(C) an examination of the current composition and levels of United States military aid to Pakistan, together with any recommendations for changes in such levels and composition that the President considers appropriate; and

(D) an examination of other major types of United States financial support to Pakistan, together with any recommendations for changes in the levels and composition of such support that the President considers appropriate.

(3) SUPPORT FOR AFGHANISTAN.—

(A) SPECIFIC OBJECTIVES.—A description of the strategy of the United States to provide aid to Afghanistan during the 5-year period beginning on the date of enactment of this Act, including a description of the resources necessary during the next 5 years to achieve specific objectives in Afghanistan in the following areas:

(i) Fostering economic development.

(ii) Curtailing the cultivation of opium.

(iii) Achieving internal security and stability.

(iv) Eliminating terrorist sanctuaries.

(v) Increasing governmental capabilities.

(vi) Improving essential infrastructure and public services.

(vii) Improving public health services.

(viii) Establishing a broad-based educational system.

(ix) Promoting democracy and the rule of law.

(x) Building national police and military forces.

(B) PROGRESS.—A description of—

(i) the progress made toward achieving the objectives described in clauses (i) through (x) of subparagraph (A); and

(ii) any shortfalls in meeting such objectives and the resources needed to fully achieve such objectives.

(4) COLLABORATION WITH SAUDI ARABIA.—A description of the strategy of the United States for expanding collaboration with the Government of Saudi Arabia on subjects of mutual interest and of importance to the United States, including a description of—

(A) the utility of the President undertaking a periodic, formal, and visible high-level dialogue between senior United States Government officials of cabinet level or higher rank and their counterparts in the Government of Saudi Arabia to address challenges in the relationship between the two governments and to identify areas and mechanisms for cooperation;

(B) intelligence and security cooperation between the United States and Saudi Arabia in the fight against Islamist terrorism;

(C) ways to advance Saudi Arabia's contribution to the Middle East peace process;

(D) political and economic reform in Saudi Arabia and throughout the Middle East;

(E) ways to promote greater tolerance and respect for cultural and religious diversity in Saudi Arabia and throughout the Middle East; and

(F) ways to assist the Government of Saudi Arabia in preventing nationals of Saudi Arabia from funding and supporting extremist groups in Saudi Arabia and other countries.

(5) STRUGGLE OF IDEAS IN THE ISLAMIC WORLD.—A description of a cohesive, long-term strategy of the United States to help win the struggle of ideas in the Islamic world, including the following:

(A) A description of specific goals related to winning this struggle of ideas.

(B) A description of the range of tools available to the United States Government to accomplish such goals and the manner in which such tools will be employed.

(C) A list of benchmarks for measuring success and a plan for linking resources to the accomplishment of such goals.

(D) A description of any additional resources that may be necessary to help win this struggle of ideas.

(E) Any recommendations for the creation of, and United States participation in, international institutions for the promotion of democracy and economic diversification in the Islamic world, and intraregional trade in the Middle East.

(F) An estimate of the level of United States financial assistance that would be sufficient to convince United States allies and people in the Islamic world that engaging in the struggle of ideas in the Islamic world is a top priority of the United States and that the United States intends to make a substantial and sustained commitment toward winning this struggle.

(6) OUTREACH THROUGH BROADCAST MEDIA.—A description of a cohesive, long-term strategy of the United States to expand its outreach to foreign Muslim audiences through broadcast media, including the following:

(A) The initiatives of the Broadcasting Board of Governors with respect to outreach to foreign Muslim audiences.

(B) An outline of recommended actions that the United States Government should take to more regularly and comprehensively present a United States point of view through indigenous broadcast media in countries with sizable Muslim populations, including increasing appearances by United States Government officials, experts, and citizens.

(C) An assessment of potential incentives for, and costs associated with, encouraging United States broadcasters to dub or subtitle into Arabic and other relevant languages their news and public affairs programs broadcast in the Muslim world in order to present those programs to a much broader Muslim audience than is currently reached.

(D) Any recommendations the President may have for additional funding and legislation necessary to achieve the objectives of the strategy.

(7) VISAS FOR PARTICIPANTS IN UNITED STATES PROGRAMS.—A description of—

(A) any recommendations for expediting the issuance of visas to individuals who are entering the United States for the purpose of participating in a scholarship, exchange, or visitor program described in subsection (c) of section ___09 without compromising the security of the United States; and

(B) a proposed schedule for implementing any recommendations described in subparagraph (A).

(8) BASIC EDUCATION IN MUSLIM COUNTRIES.—A description of a strategy, that was developed after consultation with nongovernmental organizations and individuals involved in education assistance programs in developing countries, to promote free universal basic education in the countries of the Middle East and in other countries with significant Muslim populations designated by the President. The strategy shall include the following elements:

(A) A description of the manner in which the resources of the United States and the international community shall be used to help achieve free universal basic education in such countries, including—

(i) efforts of the United states to coordinate an international effort;

(ii) activities of the United States to leverage contributions from members of the Group of Eight or other donors; and

(iii) assistance provided by the United States to leverage contributions from the private sector and civil society organizations.

(B) A description of the efforts of the United States to coordinate with other donors to reduce duplication and waste at the global and country levels and to ensure efficient coordination among all relevant departments and agencies of the Government of the United States.

(C) A description of the strategy of the United States to assist efforts to overcome challenges to achieving free universal basic education in such countries, including strategies to target hard to reach populations to promote education.

(D) A listing of countries that the President determines are eligible for assistance under the International Youth Opportunity Fund described in section ___10 and related programs.

(E) A description of the efforts of the United States to encourage countries in the Middle East and other countries with significant Muslim populations designated by the President to develop and implement a national education plan.

(F) A description of activities carried out as part of the International Youth Opportunity Fund to help close the digital divide and expand vocational and business skills in such countries.

(G) An estimate of the funds needed to achieve free universal basic education by 2015 in each country described in subparagraph (D), and an estimate of the amount that has been expended by the United States and by each such country during the previous fiscal year.

(H) A description of the United States strategy for garnering programmatic and financial support from countries in the Middle East and other countries with significant Muslim populations designated by the President, international organizations, and other countries that share the objectives of the International Youth and Opportunity Fund.

(9) ECONOMIC REFORM.—A description of the efforts of the United States Government to encourage development and promote economic reform in countries that have a significant population of Arab or Muslim individuals, including a description of—

(A) efforts to integrate countries with significant populations of Arab or Muslim individuals into the global trading system; and

(B) actions that the United States Government, acting alone and in partnership with governments in the Middle East, can take to promote intraregional trade and the rule of law in the region.

SEC. ___18. EFFECTIVE DATE.

Notwithstanding section 341 or any other provision of this Act, this title shall take effect on the date of the enactment of this Act.

SA 3907. Mr. REID (for Mr. LAUTENBERG) submitted an amendment intended to be proposed by Mr. REID to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. TERRORIST FINANCING.

(a) CLARIFICATION OF CERTAIN ACTIONS UNDER IEEPA.—In any case in which the President takes action under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to prohibit a United States person from engaging in transactions with a foreign country, where a determination has been made by the Secretary of State that the government of that country has repeatedly provided support for acts of international terrorism, such action shall apply to any foreign subsidiaries or affiliate, including any permanent foreign establishment of that United States person, that is controlled in fact by that United States person.

(b) DEFINITIONS.—In this section:

(1) CONTROLLED IN FACT.—The term ''is controlled in fact'' includes—

(A) in the case of a corporation, holds at least 50 percent (by vote or value) of the capital structure of the corporation; and

(B) in the case of any other kind of legal entity, holds interests representing at least 50 percent of the capital structure of the entity.

(2) UNITED STATES PERSON.—The term ''United States person'' includes any United States citizen, permanent resident alien, entity organized under the law of the United States (including foreign branches), wherever located, or any other person in the United States.

(c) APPLICABILITY.—

(1) IN GENERAL.—In any case in which the President has taken action under the International Emergency Economic Powers Act and such action is in effect on the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 100 days after the date of enactment of this Act.

(2) ACTIONS AFTER DATE OF ENACTMENT.—In any case in which the President takes action under the International Emergency Economic Powers Act on or after the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 90 days after the date of such action.

SEC. ___. NOTIFICATION OF CONGRESS OF TERMINATION OF INVESTIGATION BY OFFICE OF FOREIGN ASSETS CONTROL.

(a) NOTIFICATION REQUIREMENT.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

''Sec. 42. Notification of Congress of termination of investigation by Office of Foreign Assets Control.''.

''The Director of the Office of Foreign Assets Control shall notify Congress upon the termination of any investigation by the Office of Foreign Assets Control of the Department of the Treasury if any sanction is imposed by the Director of such office as a result of the investigation.''.

SA 3908. Mr. REED (for himself, Mr. SARBANES, Mr. SCHUMER, Mrs. BOXER, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 213, after line 12, add the following:

TITLE IV—PUBLIC TRANSPORTATION TERRORISM PREVENTION

SEC. 401. SHORT TITLE.

This title may be cited as the ''Public Transportation Terrorism Prevention Act of 2004''.

SEC. 402. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) throughout the world, public transportation systems have been a primary target of terrorist attacks, causing countless death and injuries;

(2) 6,000 public transportation agencies operate in the United States;

(3) 14,000,000 people in the United States ride public transportation each work day;

(4) safe and secure public transportation systems are essential to the Nation's economy and for significant national and international public events;

(5) the Federal Transit Administration has invested $68,700,000,000 since 1992 for construction and improvements to the Nation's public transportation systems;

(6) the Federal Government appropriately invested $11,000,000,000 in fiscal years 2002 and 2003 to protect our Nation's aviation system and its 1,800,000 daily passengers;

(7) the Federal Government invested $115,000,000 in fiscal years 2003 and 2004 to protect public transportation systems in the United States;

(8) the Federal Government has invested $9.16 in aviation security improvements per passenger, but only $0.006 in public transportation security improvements per passenger;

(9) the General Accounting Office, the Mineta Institute for Surface Transportation Policy Studies, the American Public Transportation Association, and other experts have reported an urgent need for significant investment in transit security improvements; and

(10) the Federal Government has a duty to deter and mitigate, to the greatest extent practicable, threats against the Nation's public transportation systems.

SEC. 403. MEMORANDUM OF UNDERSTANDING.

(a) IN GENERAL.—Not later than 45 days after the date of enactment of this Act, the Secretary of Transportation shall enter into a memorandum of understanding with the Secretary of Homeland Security to define and clarify the respective public transportation security roles and responsibilities of the Department of Transportation and the Department of Homeland Security.

(b) CONTENTS.—The memorandum of understanding described in subsection (a) shall—

(1) establish a process to develop security standards for public transportation agencies;

(2) establish funding priorities for grants from the Department of Homeland Security to public transportation agencies;

(3) create a method of direct coordination with public transportation agencies on security matters;

(4) address any other issues determined to be appropriate by the Secretary of Transportation and the Secretary of Homeland Security; and

(5) include a formal and permanent mechanism to ensure coordination and involvement by the Department of Transportation, as appropriate, in public transportation security.

SEC. 404. SECURITY ASSESSMENTS.

(a) PUBLIC TRANSPORTATION SECURITY ASSESSMENTS.—

(1) SUBMISSION.—Not later than 30 days after the date of enactment of this Act, the Federal Transit Administration of the Department of Transportation shall submit all public transportation security assessments and all other relevant information to the Department of Homeland Security.

(2) REVIEW.—The Secretary of Homeland Security shall review and augment the security assessments received under paragraph (1).

(3) ALLOCATIONS.—The assessments described in paragraph (1) shall be used as the basis for allocating grant funds under section 405, unless the Secretary of Homeland Security determines that an adjustment is necessary to respond to an urgent threat or other significant factors, after notification to the Committee on Banking, Housing, and Urban Affairs of the Senate.

(4) SECURITY IMPROVEMENT PRIORITIES.—The Secretary of Homeland Security shall establish security improvement priorities, in consultation with the management and employee representatives of each public transportation system receiving an assessment that will be used by public transportation agencies for any funding provided under section 405.

(5) UPDATES.—The Secretary of Homeland Security shall annually update the assessments referred to in this subsection and conduct assessments of all transit agencies considered to be at greatest risk of a terrorist attack.

(b) USE OF ASSESSMENT INFORMATION.—The Secretary of Homeland Security shall use the information collected under subsection (a)—

(1) to establish the process for developing security guidelines for public transportation security;

(2) to design a security improvement strategy that minimizes terrorist threats to public transportation systems; and

(3) to design a security improvement strategy that maximizes the efforts of public transportation systems to mitigate damage from terrorist attacks.

(c) BUS PUBLIC TRANSPORTATION SYSTEMS.—The Secretary of Homeland Security shall conduct assessments of local bus-only public transportation systems to determine the specific needs of this form of public transportation that are appropriate to the size and nature of the bus system.

(d) RURAL PUBLIC TRANSPORTATION SYSTEMS.—The Secretary of Homeland Security shall conduct assessments of selected public transportation systems that receive funds under section 5311 of title 49, United States Code, to determine the specific needs of this form of public transportation that are appropriate to the size and nature of the system.

SEC. 405. SECURITY ASSISTANCE GRANTS.

(a) CAPITAL SECURITY ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary of Homeland Security shall award grants directly to public transportation agencies for allowable capital security improvements based on the priorities established under section 404(a)(4).

(2) ALLOWABLE USE OF FUNDS.—Grants awarded under paragraph (1) may be used for—

(A) tunnel protection systems;

(B) perimeter protection systems;

(C) redundant critical operations control systems;

(D) chemical, biological, radiological, or explosive detection systems;

(E) surveillance equipment;

(F) communications equipment;

(G) emergency response equipment;

(H) fire suppression and decontamination equipment;

(I) global positioning or automated vehicle locator type system equipment;

(J) evacuation improvements; and

(K) other capital security improvements.

(b) OPERATIONAL SECURITY ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary of Homeland Security shall award grants directly to public transportation agencies for allowable operational security improvements based on the priorities established under section 404(a)(4).

(2) ALLOWABLE USE OF FUNDS.—Grants awarded under paragraph (1) may be used for—

(A) security training for transit employees, including bus and rail operators, mechanics, customer service, maintenance employees, transit police, and security personnel;

(B) live or simulated drills;

(C) public awareness campaigns for enhanced public transportation security;

(D) canine patrols for chemical, biological, or explosives detection;

(E) overtime reimbursement for enhanced security personnel during significant national and international public events, consistent with the priorities established under section 404(a)(4); and

(F) other appropriate security improvements identified under section 404(a)(4), excluding routine, ongoing personnel costs.

(c) CONGRESSIONAL NOTIFICATION.—Not later than 3 days before any grant is awarded under this section, the Secretary of Homeland Security shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate of the intent to award such grant.

(d) TRANSIT AGENCY RESPONSIBILITIES.—Each public transportation agency that receives a grant under this section shall—

(1) identify a security coordinator to coordinate security improvements;

(2) develop a comprehensive plan that demonstrates the agency's capacity for operating and maintaining the equipment purchased under this subsection; and

(3) report annually to the Department of Homeland Security on the use of grant funds received under this section.

(e) RETURN OF MISSPENT GRANT FUNDS.—If the Secretary of Homeland Security determines that a grantee used any portion of the grant funds received under this section for a purpose other than the allowable uses specified for that grant under this section, the grantee shall return any amount so used to the Treasury of the United States.

SEC. 406. INTELLIGENCE SHARING.

(a) INTELLIGENCE SHARING.—The Secretary of Homeland Security shall ensure that the Department of Transportation receives appropriate and timely notification of all credible terrorist threats against public transportation assets in the United States.

(b) INFORMATION SHARING ANALYSIS CENTER.—

(1) ESTABLISHMENT.—The Department of Homeland Security shall fund the reasonable costs of the Information Sharing and Analysis Center for Public Transportation (referred to in this subsection as the ''ISAC'') established pursuant to Presidential Directive 63 to protect critical infrastructure.

(2) PUBLIC TRANSPORTATION AGENCY PARTICIPATION.—The Secretary of Homeland Security—

(A) shall require those public transportation agencies that the Secretary determines to be at significant risk of terrorist attack to participate in the ISAC;

(B) shall encourage all other public transportation agencies to participate in the ISAC; and

(C) shall not charge any public transportation agency a fee for participation in the ISAC.

SEC. 407. RESEARCH, DEVELOPMENT, AND DEMONSTRATION GRANTS.

(a) GRANTS AUTHORIZED.—The Secretary of Homeland Security, in consultation with the Federal Transit Administration, shall award grants to public or private entities to conduct research into, and demonstration of, technologies and methods to reduce and deter terrorist threats or mitigate damages resulting from terrorist attacks against public transportation systems.

(b) USE OF FUNDS.—Grants awarded under subsection (a) may be used for—

(1) researching chemical, biological, radiological, or explosive detection systems that do not significantly impede passenger access;

(2) researching imaging technologies;

(3) conducting product evaluations and testing; and

(4) researching other technologies or methods for reducing or deterring terrorist attacks against public transportation systems, or mitigating damage from such attacks.

(c) REPORTING REQUIREMENT.—Each entity that receives a grant under this section shall report annually to the Department of Homeland Security on the use of grant funds received under this section.

(d) RETURN OF MISSPENT GRANT FUNDS.—If the Secretary of Homeland Security determines that a grantee used any portion of the grant funds received under this section for a purpose other than the allowable uses specified under subsection (b), the grantee shall return any amount so used to the Treasury of the United States.

SEC. 408. REPORTING REQUIREMENTS.

(a) ANNUAL REPORT TO CONGRESS.—Not later than March 31 of each year, the Secretary of Homeland Security shall submit a report, which describes the implementation of sections 404 through 407, and the state of public transportation security in the United States, to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate;

(2) the Committee on Governmental Affairs of the Senate; and

(3) the Committee on Appropriations of the Senate.

(b) ANNUAL REPORT TO GOVERNORS.—Not later than March 31 of each year, the Secretary of Homeland Security shall submit a report to the governor of each State in which a transit agency that has received a grant under this title is operating that specifies the amount of grant funds distributed to each such transit agency and the use of such grant funds.

SEC. 409. AUTHORIZATION OF APPROPRIATIONS.

(a) CAPITAL SECURITY ASSISTANCE PROGRAM.—There are authorized to be appropriated $2,370,000,000 for fiscal year 2005 to carry out the provisions of section 405(a), which shall remain available until expended.

(b) OPERATIONAL SECURITY ASSISTANCE PROGRAM.—There are authorized to be appropriated to carry out the provisions of section 405(b)—

(1) $534,000,000 for fiscal year 2005;

(2) $333,000,000 for fiscal year 2006; and

(3) $133,000,000 for fiscal year 2007.

(c) INTELLIGENCE.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section 406.

(d) RESEARCH.—There are authorized to be appropriated $130,000,000 for fiscal year 2005 to carry out the provisions of section 407, which shall remain available until expended.

SEC. 410. EFFECTIVE DATE; SUNSET PROVISION.

(a) EFFECTIVE DATE.—Notwithstanding section 341, this title, and the amendments made by this title, shall take effect on the date of enactment of this Act.

(b) SUNSET PROVISION.—This title is repealed on October 1, 2007.

SA 3909. Ms. SNOWE (for herself, Mr. ROBERTS, Ms. MIKULSKI, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 60, line 20, strike ''the relationships among''.

On page 63, line 8, strike ''the relationships among''.

On page 64, line 5, strike ''and'' at the end.

On page 64, between lines 5 and 6, insert the following:

(4) to evaluate the compliance of the National Intelligence Authority and the National Intelligence Program with any applicable United States law or regulation, including any applicable regulation, policy, or procedure issued under section 206, or with any regulation, policy, or procedure of the Director governing the sharing or dissemination of, or access to, intelligence information or products; and

On page 64, line 6, strike ''(4)'' and insert ''(5)''.

On page 65, strike lines 11 through 16 and insert the following:

(2)(A) The Inspector General shall have access to any employee, or any employee of a contractor, of any element of the intelligence community whose testimony is needed for the performance of the duties of the Inspector General.

On page 66, beginning on line 1, strike ''or contractor of the National Intelligence Authority'' and insert ', or any employee of a contractor, of any element of the intelligence community''.

On page 66, line 4, strike ''Director'' and insert ''National Intelligence Director or other appropriate official of the intelligence community''.

On page 68, between lines 7 and 8, insert the following:

(g) COORDINATION AMONG INSPECTORS GENERAL WITHIN NATIONAL INTELLIGENCE PROGRAM.—(1) In the event of a matter within the jurisdiction of the Inspector General of the National Intelligence Authority that may be subject to an investigation, inspection, or audit by both the Inspector General of the National Intelligence Authority and an Inspector General, whether statutory or administrative, with oversight responsibility for an element or elements of the intelligence community, the Inspector General of the National Intelligence Authority and such other Inspector or Inspectors General shall expeditiously resolve which Inspector General shall conduct such investigation, inspection, or audit. The Inspector General of the National Intelligence Authority shall make the final decision on the resolution of such jurisdiction.

(2) The Inspector General conducting an investigation, inspection, or audit covered by paragraph (1) shall submit the results of such investigation, inspection, or audit to any other Inspector General with jurisdiction to conduct such investigation, inspection, or audit who did not conduct such investigation, inspection, or audit.

(3) If an investigation, inspection, or audit covered by paragraph (1) is conducted by an Inspector General other than the Inspector General of the National Intelligence Authority, the Inspector General of the National Intelligence Authority may, upon completion of such investigation, inspection, or audit by such Inspector General, conduct a separate investigation, inspection, or audit of the matter concerned under this section.

On page 68, line 8, strike ''(g)'' and insert ''(h)''.

On page 69, between lines 20 and 21, insert the following:

(C) Each Inspector General of an element of the intelligence community shall comply fully with a request for information or assistance from the Inspector General of the National Intelligence Authority.

(D) The Inspector General of the National Intelligence Authority may, upon reasonable notice to the head of any element of the intelligence community, conduct, as authorized by this section, an investigation, inspection, or audit of such element and may enter into any place occupied by such element for purposes of the performance of the duties of the Inspector General.

On page 69, line 21, strike ''(h)'' and insert ''(i)''.

On page 70, line 13, strike ''Authority'' and insert ''Program''.

On page 71, line 1, strike ''An assessment'' and insert ''In consultation with the Officer for Civil Rights and Civil Liberties of the National Intelligence Authority and the Privacy Officer of the National Intelligence Authority, an assessment''.

On page 71, beginning on line 16, strike ''Authority'' and insert ''Authority or the National Intelligence Program, or in the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community,''.

On page 72, beginning on line 3, strike ''a relationship between''.

On page 72, strike lines 19 through 25 and insert the following:

(B) an investigation, inspection, review, or audit carried out by the Inspector General

focuses on any current or former official of the intelligence community who—

(i) holds or held a position in an element of the intelligence community that is subject to appointment by the President, by and with the advice and consent of the Senate, including an appointment held on an acting basis; or

(ii) holds or held a position in an element of the intelligence community, including a position held on an acting basis, that is appointed by the National Intelligence Director;

On page 73, strike line 24 and all that follows through page 74, line 5, and insert the following:

(5)(A) An employee of an element of the intelligence community, an employee assigned or detailed to an element of the intelligence community, or an employee of a contractor of an element of the intelligence community who intends to report to Congress a complaint or information with respect to an urgent concern may report such a complaint or information to the Inspector General.

On page 77, line 8, strike ''the Authority'' and insert ''an element of the intelligence community''.

On page 77, between lines 11 and 12, insert the following:

(j) CONSTRUCTION OF DUTIES REGARDING ELEMENTS OF INTELLIGENCE COMMUNITY.—Except as resolved pursuant to subsection (g), the performance by the Inspector General of the National Intelligence Authority of any duty, responsibility, or function regarding an element of the intelligence community shall not be construed to modify or effect the duties and responsibilities of any other Inspector General having duties or responsibilities relating to such element.

On page 77, line 12, strike ''(i)'' and insert ''(k)''.

SA 3910. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REPORT ON INTERNATIONAL AIR CARGO THREATS.

(a) REPORT.—Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in coordination with the Secretary of Defense and the Administrator of the Federal Aviation Administration, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains the following:

(1) A description of the current procedures in place to address the threat of an inbound all-cargo aircraft from outside the United States that intelligence sources indicate could carry explosive, incendiary, chemical, biological or nuclear devices.

(2) An analysis of the potential for establishing secure facilities along established international aviation routes for the purposes of diverting and securing aircraft described in paragraph (1).

(b) REPORT FORMAT.—The Secretary may submit all, or part, of the report required by this section in classified and redacted form if the Secretary determines that it is appropriate or necessary.

SA 3911. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 210, between lines 22 and 23, insert the following:

SEC. 336. NATIONAL INTELLIGENCE COUNCIL REPORT ON METHODOLOGIES UTILIZED FOR NATIONAL INTELLIGENCE ESTIMATES.

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the National Intelligence Council shall submit to Congress a report that includes the following:

(1) The methodologies utilized for the initiation, drafting, publication, coordination, and dissemination of the results of National Intelligence Estimates (NIEs).

(2) Such recommendations as the Council considers appropriate regarding improvements of the methodologies utilized for National Intelligence Estimates in order to ensure the timeliness of such Estimates and ensure that such Estimates address the national security and intelligence priorities and objectives of the President and the National Intelligence Director.

(b) FORM.—The report under subsection (a) shall be submitted in an unclassified form, but may include a classified annex.

On page 210, line 23, strike ''**336.**'' and insert ''**337.**''.

SA 3912. Mr. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 210, between lines 22 and 23, insert the following:

SEC. 336. NATIONAL INTELLIGENCE DIRECTOR REPORT ON NATIONAL COUNTERTERRORISM CENTER.

(a) REPORT.—Not later than one year after the date of the establishment of the National Counterterrorism Center under section 143, the National Intelligence Director shall submit to Congress a report evaluating the effectiveness of the Center in achieving its primary missions under subsection (d) of that section.

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) An assessment of the effectiveness of the National Counterterrorism Center in achieving its primary missions.

(2) An assessment of the effectiveness of the authorities of the Center in contributing to the achievement of its primary missions, including authorities relating to personnel and staffing, funding, information sharing, and technology.

(3) An assessment of the relationships between the Center and the other elements and components of the intelligence community.

(4) An assessment of the extent to which the Center provides an appropriate model for the establishment of national intelligence centers under section 144.

(c) FORM.—The report under subsection (a) shall be submitted in an unclassified form, but may include a classified annex.

SA 3913. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 159, strike lines 19 through 25 and insert the following:

''(2) ENFORCEMENT OF SUBPOENA.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(D), either the Board or the Attorney General of the United States may seek an order to require such person to produce the evidence required by such subpoena from the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found.''.

SA 3914. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PRIVACY AND PASSENGER IDENTIFICATION VERIFICATION TECHNOLOGIES.

(a) IN GENERAL.—The Secretary of Homeland Security shall consult with the Privacy and Civil Liberties Oversight Board in the development of any program to use passenger identification verification technologies.

(b) REPORT REQUIREMENT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, no Federal program for passenger verification identification technologies shall begin until after the Secretary of Homeland Security has submitted a report to Congress and to the Privacy and Civil Liberties Oversight Board about the program.

(2) REPORT CONTENTS.—The report shall address the privacy and civil liberty implications of the program, including the accuracy and reliability of the technologies used, and whether the program incorporates the necessary architectural, operational, technological, and procedural safeguards to protect privacy and civil liberties.

SA 3915. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. TERRORIST SCREENING CENTER.

(a) CRITERIA FOR WATCH LIST.—The Secretary of Homeland Security shall report to Congress the criteria for placing individuals on the Terrorist Screening Center consolidated screening watch list, including minimum standards for reliability and accuracy of identifying information, the certainty and level of threat that the individual poses, and the consequences that apply to the person if located. To the greatest extent consistent with the protection of classified information and applicable law, the report shall be in unclassified form and available to the public, with a classified annex where necessary.

(b) SAFEGUARDS AGAINST ERRONEOUS LISTINGS.—The Secretary of Homeland Security shall establish a process for individuals to challenge ''Automatic Selectee'' or ''No Fly'' designations on the consolidated screening watch list and have their names removed from such lists, if erroneously present.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Privacy and Civil Liberties Oversight Board

shall submit a report assessing the impact of the ''No Fly'' and ''Automatic Selectee'' lists on privacy and civil liberties to the Committee on the Judiciary, the Committee on Governmental Affairs, and the Committee on Commerce, Science and Transportation of the Senate, and the Committee on the Judiciary, the Committee on Government Reform, and the Committee on Transportation and Infrastructure of the House of Representatives. The report shall include any recommendations for practices, procedures, regulations, or legislation to eliminate or minimize adverse effects of such lists on privacy, discrimination, due process and other civil liberties, as well as the implications of applying those lists to other modes of transportation. The Comptroller General of the United States shall cooperate with the Privacy and Civil Liberties Board in the preparation of the report. To the greatest extent consistent with the protection of classified information and applicable law, the report shall be in unclassified form and available to the public, with a classified annex where necessary.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall become effective on the date of enactment of this Act.

SA 3916. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 132, line 23, strike ''and''.

On page 133, line 3, strike the period and insert ''; and''.

On page 133, between lines 3 and 4, insert the following:

(L) utilizing privacy-enhancing technologies that minimize the dissemination and disclosure of personally identifiable information.

On page 153, between lines 2 and 3, insert the following:

(o) LIMITATION ON FUNDS.—Notwithstanding any other provision of this section, none of the funds provided pursuant to subsection (n) may be obligated for deployment or implementation of the Network under subsection (f) unless—

(1) the guidelines and requirements under subsection (e) are submitted to Congress; and

(2) the Privacy and Civil Liberties Oversight Board submits to Congress an assessment of whether those guidelines and requirements incorporate the necessary architectural, operational, technological, and procedural safeguards to protect privacy and civil liberties.

SA 3917. Mr. LEAHY (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. FBI TRANSLATOR REPORTING REQUIREMENT.

Section 205(c) of Public Law 107-56 (28 U.S.C. 532 note, 115 Stat. 282) is amended to read as follows:

''(c) REPORT.—Not later than 30 days after the date of enactment of the National Intelligence Reform Act of 2004, and annually thereafter, the Attorney General of the United States shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, that contains, with respect to each preceding 12-month period—

''(1) the number of translators employed, or contracted for, by the Federal Bureau of Investigation or other components of the Department of Justice;

''(2) any legal or practical impediments to using translators employed by other Federal, State, or local agencies on a full, part-time, or shared basis;

''(3) the needs of the Federal Bureau of Investigation for the specific translation services in certain languages, and recommendations for meeting those needs;

''(4) the status of any automated statistical reporting system, including implementation and future viability;

''(5) the storage capabilities of the digital collection system or systems utilized;

''(6) a description of the establishment and compliance with audio retention policies that satisfy the investigative and intelligence goals of the Federal Bureau of Investigation;

''(7) a description of the implementation of quality control procedures and mechanisms for monitoring compliance with quality control procedures; and

''(8) the current counterterrorism and counterintelligence audio backlog and recommendations for alleviating any backlog.''.

SA 3918. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. WHISTLEBLOWER PROTECTION.

(a) SHORT TITLE.—This section may be cited as the ''Congressional Right to Know Act''.

(b) FINDINGS.—Congress adopts herein specified findings of the National Commission on Terrorist Attacks Upon the United States (''9–11 Commission'') contained in the ''9–11 Commission Report'' issued on July 22, 2004, and makes further findings as follows:

(1) Prior to September 11, 2001, there were warnings of whistleblowers at the Federal Bureau of Investigation, and other national security professionals about security breakdowns in air security, border control and emergency planning.

(2) Whistleblowers throughout the Executive branch who lawfully exercised the freedom to warn were subjected to retaliation without effective legal defense.

(3) Safe communications channels that effectively protect the freedom to warn serve Congress' right to know and are the lifeline for the Commission's ''most difficult and important'' goal of ''strengthening congressional oversight to improve quality and accountability''.

(4) Effectively protecting whistleblowers' freedom to warn is the necessary foundation to implement and enforce 9–11 Commission reforms over entrenched institutional resistance, so that the pattern of announced reforms not effecting the necessary institutional and cultural changes does not happen again.

(5) Whistleblowers lawfully exercising the freedom to warn personify the 9–11 Commission's conclusion that the ''choice between security and liberty is a false choice'' because they use freedom to strengthen America's security.

(6) Whistleblowers exercising the freedom to warn are indispensable for ''an enhanced system of checks and balances to protect the precious liberties that are vital to our way of life'' by acting as sentinels who defend the principle that ''if our liberties are curtailed, we lose the values that we are struggling to defend''.

(7) Effective whistleblower protection is a cornerstone principle necessary for the Commission's institutional goal that ''[g]ood people'' should not have to ''overcome bad structures''.

(8) Effectively protecting the individual employee's freedom to warn is a prerequisite to strengthen national security by replacing the ''need to know'' culture of excessive agency compartmentalization with a ''need to share'' culture promoting a ''duty to the information'' and the American taxpayers.

(9) Creating a safe channel to effectively exercise the freedom to warn implements the 9–11 Commission's goal for policies ''that simultaneously empower and constrain officials, telling them clearly what is and what is not permitted''.

(10) Creating a safe channel to effectively exercise the freedom to warn of breaches in professional security standards serves the 9–11 Commission's premise that professional expertise should have priority over institutional concerns.

(c) JURISDICTION.—This section shall apply to any Federal employee, including the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Security Agency, the Department of Homeland Security, the Transportation Security Administration, or any other employee of the United States, as defined by section 2105 of title 5, United States Code, and to any employee or agent of an entity subject to liability under sections 3729 et. seq. of title 5, United States Code, the False Claims Act.

(d) PROHIBITED DISCRIMINATION.—No person covered by subsection (c) may be discharged, demoted, suspended, threatened, harassed, investigated other than any ministerial or nondiscretionary fact finding activities necessary for the agency to perform its mission, or in any other manner discriminated against, including denial, suspension, revocation, or other determination relating to a security clearance or any other access determination because the person—

(1) is about to or provides information, causes information to be provided, or otherwise communicates with any Member of Congress or any committee of Congress as provided by section 7211 of title 5, United States Code, the Lloyd LaFollette Act of 1912, including disclosure of protected information under Public Law 105–272, the Intelligence Community Whistleblower Protection Act;

(2)(A) is about to, or communicates or provides information whose disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs, cause such information to be communicated or provided, or otherwise assists in any lawful investigation of other action to carry out the government's responsibilities regarding any conduct which the person reasonably believes is evidence of any violation of any law, rule or regulation, gross waste, gross mismanagement, abuse of authority, or a substantial and specific danger to public health or safety when the information or assistance is provided to or the investigation is conducted by—

(i) the President or the President's authorized representative;

(ii) a Federal regulatory or law enforcement agency;

(iii) any Member of Congress or any committee of Congress; or

(iv) a witness, coworker, or person with supervisory authority over the person (or such other person who has the authority to investigate, discover, or terminate misconduct); or

(B) if communication of otherwise-covered information is specifically prohibited by law and if such information is required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs, it may be communicated to Congress pursuant to paragraph (1), the Special Counsel, the Inspector General of an agency, or another employee designated by the head of the agency to receive such disclosures;

(3) is about to or files, causes to be filed, testify, participate in, or otherwise assist in a proceeding or action filed or about to be filed relating to a violation of any law, rule, or regulation, or take any other lawful action to assist in carrying out the purposes of the law, rule, or regulation;

(4) is about to or refuses to violate or assist in the violation of any law, rule, or regulation;

(5) is about to or communicates or provides information protected by this subsection or cause such information to be provided or otherwise communicated, notwithstanding any nondisclosure policy, form, or agreement, if such policy, form, or agreement does not contain the following statement, with an additional reference to this Act: ''These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive order No. 12958, section 7211 of title 5, United States Code, United States Code (governing disclosures to Congress), section 1034 of title 10, United States Code (governing disclosure to Congress by members of the military), section 2302(b)(8) of title 5, United States Code (governing disclosures of illegality, waste, fraud, abuse, or public health or safety threats), the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents), and the statutes which protect against disclosures that could compromise national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by such Executive order and such statutory provisions are incorporated into this agreement and are controlling.'';

(e) CLARIFICATION OF WHISTLEBLOWER RIGHTS FOR CRITICAL INFRASTRUCTURE INFORMATION.—Section 214(c) of the Homeland Security Act of 2002 (Public Law 107–296) is amended by adding at the end the following: ''For purposes of this section a permissible use of independently obtained information includes the disclosure of such information under section 7211 of title 5, United States Code, and section 2302(b)(8) of title 5, United States Code and the provisions of this Act.''.

(f) PROTECTED ACTIVITIES.—Activities protected by this section is covered without restriction to time, place, form, motive, context, policy or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties;

(g) PRESUMPTIONS.—For purposes of this section, any presumption relating to the performance of a duty by an employee who has authority to take, direct others to take, recommend, or approve any personnel action may be rebutted by substantial evidence.

(h) DETERMINATIONS.—For purposes of subsection (d)(2), a determination as to whether an employee or applicant reasonably believes that they have provided or otherwise communicated information that evidences any violation of law, rule, regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety shall be made by determining whether a disinterested observer with knowledge of the essential facts known to and readily ascertainable by the employee would reasonably conclude that the actions evidence such violations, mismanagement, waste, abuse, or danger.

(i) ENFORCEMENT ACTION.—

(1) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of this section may seek relief under this subsection, by—

(A) filing a complaint with the Merit Systems Protection Board for a violation of sections 2302(b)(8), 2302(b)(9), or 2302(b)(11) of title 5, United States Code; or

(B) if the Board has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

(2) PROCEDURE.—

(A) BURDENS OF PROOF.—An action brought under this section shall be governed by the legal burdens of proof set forth in sections 1214 and 1221 of title 5, United States Code.

(B) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 1 year after the date on which the violation occurs.

(j) RIGHTS RETAINED BY PERSON.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any person under any Federal or State law, or under any collective bargaining agreement.

(k) REMEDIES.—

(1) IN GENERAL.—A person prevailing in any action under subsection (i) shall be entitled to all relief necessary to make the person whole.

(2) DAMAGES.—Relief for any action under paragraph (1) shall include—

(A) reinstatement or transfer to the first available position for which the person is qualified with the same seniority status that the person would have had, but for the discrimination;

(B) the amount of any back pay, with interest; and

(C) compensation for any compensatory, consequential or special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

SA 3919. Mr. LEAHY (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

Add at the end the following:

TITLE IV—REFORM OF FEDERAL BUREAU OF INVESTIGATION

SEC. 401. SHORT TITLE.

This title may be cited as the ''Federal Bureau of Investigation Reform Act of 2004''.

Subtitle A—Whistleblower Protection

SEC. 411. INCREASING PROTECTIONS FOR FBI WHISTLEBLOWERS.

Section 2303 of title 5, United States Code, is amended to read as follows:

''§ 2303. Prohibited personnel practices in the Federal Bureau of Investigation

''(a) DEFINITION.—In this section, the term 'personnel action' means any action described in clauses (i) through (x) of section 2302(a)(2)(A).

''(b) PROHIBITED PRACTICES.—Any employee of the Federal Bureau of Investigation who has the authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to any employee of the Bureau or because of—

''(1) any disclosure of information by the employee to the Attorney General (or an employee designated by the Attorney General for such purpose), a supervisor of the employee, the Inspector General for the Department of Justice, or a Member of Congress that the employee reasonably believes evidences—

''(A) a violation of any law, rule, or regulation; or

''(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; or

''(2) any disclosure of information by the employee to the Special Counsel of information that the employee reasonably believes evidences—

''(A) a violation of any law, rule, or regulation; or

''(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

''(c) INDIVIDUAL RIGHT OF ACTION.—Chapter 12 of this title shall apply to an employee of the Federal Bureau of Investigation who claims that a personnel action has been taken under this section against the employee as a reprisal for any disclosure of information described in subsection (b)(2).

''(d) REGULATIONS.—The Attorney General shall prescribe regulations to ensure that a personnel action under this section shall not be taken against an employee of the Federal Bureau of Investigation as a reprisal for any disclosure of information described in subsection (b)(1), and shall provide for the enforcement of such regulations in a manner consistent with applicable provisions of sections 1214 and 1221, and in accordance with the procedures set forth in sections 554 through 557 and 701 through 706.''.

Subtitle B—FBI Security Career Program

SEC. 421. SECURITY MANAGEMENT POLICIES.

The Attorney General shall establish policies and procedures for the effective management (including accession, education, training, and career development) of persons serving in security positions in the Federal Bureau of Investigation.

SEC. 422. DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) IN GENERAL.—Subject to the authority, direction, and control of the Attorney General, the Director of the Federal Bureau of Investigation (referred to in this subtitle as the ''Director'') shall carry out all powers, functions, and duties of the Attorney General with respect to the security workforce in the Federal Bureau of Investigation.

(b) POLICY IMPLEMENTATION.—The Director shall ensure that the policies of the Attorney

General established in accordance with this title are implemented throughout the Federal Bureau of Investigation at both the headquarters and field office levels.

SEC. 423. DIRECTOR OF SECURITY.

The Director shall appoint a Director of Security, or such other title as the Director may determine, to assist the Director in the performance of the duties of the Director under this title.

SEC. 424. SECURITY CAREER PROGRAM BOARDS.

(a) ESTABLISHMENT.—The Director acting through the Director of Security shall establish a security career program board to advise the Director in managing the hiring, training, education, and career development of personnel in the security workforce of the Federal Bureau of Investigation.

(b) COMPOSITION OF BOARD.—The security career program board shall include—

(1) the Director of Security (or a representative of the Director of Security);

(2) the senior officials, as designated by the Director, with responsibility for personnel management;

(3) the senior officials, as designated by the Director, with responsibility for information management;

(4) the senior officials, as designated by the Director, with responsibility for training and career development in the various security disciplines; and

(5) such other senior officials for the intelligence community as the Director may designate.

(c) CHAIRPERSON.—The Director of Security (or a representative of the Director of Security) shall be the chairperson of the board.

(d) SUBORDINATE BOARDS.—The Director of Security may establish a subordinate board structure to which functions of the security career program board may be delegated.

SEC. 425. DESIGNATION OF SECURITY POSITIONS.

(a) DESIGNATION.—The Director shall designate, by regulation, those positions in the Federal Bureau of Investigation that are security positions for purposes of this title.

(b) REQUIRED POSITIONS.—In designating security positions under subsection (a), the Director shall include, at a minimum, all security-related positions in the areas of—

(1) personnel security and access control;

(2) information systems security and information assurance;

(3) physical security and technical surveillance countermeasures;

(4) operational, program, and industrial security; and

(5) information security and classification management.

SEC. 426. CAREER DEVELOPMENT.

(a) CAREER PATHS.—The Director shall ensure that appropriate career paths for personnel who wish to pursue careers in security are identified in terms of the education, training, experience, and assignments necessary for career progression to the most senior security positions and shall make available published information on those career paths.

(b) LIMITATION ON PREFERENCE FOR SPECIAL AGENTS.—

(1) IN GENERAL.—Except as provided in the policy established under paragraph (2), the Attorney General shall ensure that no requirement or preference for a Special Agent of the Federal Bureau of Investigation (referred to in this subtitle as a ''Special Agent'') is used in the consideration of persons for security positions.

(2) POLICY.—The Attorney General shall establish a policy that permits a particular security position to be specified as available only to Special Agents, if a determination is made, under criteria specified in the policy, that a Special Agent—

(A) is required for that position by law;

(B) is essential for performance of the duties of the position; or

(C) is necessary for another compelling reason.

(3) REPORT.—Not later than December 15 of each year, the Director shall submit to the Attorney General a report that lists—

(A) each security position that is restricted to Special Agents under the policy established under paragraph (2); and

(B) the recommendation of the Director as to whether each restricted security position should remain restricted.

(c) OPPORTUNITIES TO QUALIFY.—The Attorney General shall ensure that all personnel, including Special Agents, are provided the opportunity to acquire the education, training, and experience necessary to qualify for senior security positions.

(d) BEST QUALIFIED.—The Attorney General shall ensure that the policies established under this title are designed to provide for the selection of the best qualified individual for a position, consistent with other applicable law.

(e) ASSIGNMENTS POLICY.—The Attorney General shall establish a policy for assigning Special Agents to security positions that provides for a balance between—

(1) the need for personnel to serve in career enhancing positions; and

(2) the need for requiring service in each such position for sufficient time to provide the stability necessary to carry out effectively the duties of the position and to allow for the establishment of responsibility and accountability for actions taken in the position.

(f) LENGTH OF ASSIGNMENT.—In implementing the policy established under subsection (b)(2), the Director shall provide, as appropriate, for longer lengths of assignments to security positions than assignments to other positions.

(g) PERFORMANCE APPRAISALS.—The Director shall provide an opportunity for review and inclusion of any comments on any appraisal of the performance of a person serving in a security position by a person serving in a security position in the same security career field.

(h) BALANCED WORKFORCE POLICY.—In the development of security workforce policies under this Act with respect to any employees or applicants for employment, the Attorney General shall, consistent with the merit system principles set out in paragraphs (1) and (2) of section 2301(b) of title 5, United States Code, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

SEC. 427. GENERAL EDUCATION, TRAINING, AND EXPERIENCE REQUIREMENTS.

(a) IN GENERAL.—The Director shall establish education, training, and experience requirements for each security position, based on the level of complexity of duties carried out in the position.

(b) QUALIFICATION REQUIREMENTS.—Before being assigned to a position as a program manager or deputy program manager of a significant security program, a person—

(1) must have completed a security program management course that is accredited by the Intelligence Community-Department of Defense Joint Security Training Consortium or is determined to be comparable by the Director; and

(2) must have not less than 6 years experience in security, of which not less than 2 years were performed in a similar program office or organization.

SEC. 428. EDUCATION AND TRAINING PROGRAMS.

(a) IN GENERAL.—The Director, in consultation with the Director of Central Intelligence and the Secretary of Defense, shall establish and implement education and training programs for persons serving in security positions in the Federal Bureau of Investigation.

(b) OTHER PROGRAMS.—The Director shall ensure that programs established under subsection (a) are established and implemented, to the maximum extent practicable, uniformly with the programs of the Intelligence Community and the Department of Defense.

SEC. 429. OFFICE OF PERSONNEL MANAGEMENT APPROVAL.

(a) IN GENERAL.—The Attorney General shall submit any requirement that is established under section 427 to the Director of the Office of Personnel Management for approval.

(b) FINAL APPROVAL.—If the Director does not disapprove the requirements established under section 427 within 30 days after the date on which the Director receives the requirement, the requirement is deemed to be approved by the Director of the Office of Personnel Management.

Subtitle C—FBI Counterintelligence Polygraph Program

SEC. 431. DEFINITIONS.

In this subtitle:

(1) POLYGRAPH PROGRAM.—The term ''polygraph program'' means the counterintelligence screening polygraph program established under section 432.

(2) POLYGRAPH REVIEW.—The term ''Polygraph Review'' means the review of the scientific validity of the polygraph for counterintelligence screening purposes conducted by the Committee to Review the Scientific Evidence on the Polygraph of the National Academy of Sciences.

SEC. 432. ESTABLISHMENT OF PROGRAM.

Not later than 6 months after the date of enactment of this Act, the Attorney General, in consultation with the Director of the Federal Bureau of Investigation and the Director of Security of the Federal Bureau of Investigation, shall establish a counterintelligence screening polygraph program for the Federal Bureau of Investigation that consists of periodic polygraph examinations of employees, or contractor employees of the Federal Bureau of Investigation who are in positions specified by the Director of the Federal Bureau of Investigation as exceptionally sensitive in order to minimize the potential for unauthorized release or disclosure of exceptionally sensitive information.

SEC. 433. REGULATIONS.

(a) IN GENERAL.—The Attorney General shall prescribe regulations for the polygraph program in accordance with subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedures Act).

(b) CONSIDERATIONS.—In prescribing regulations under subsection (a), the Attorney General shall—

(1) take into account the results of the Polygraph Review; and

(2) include procedures for—

(A) identifying and addressing false positive results of polygraph examinations;

(B) ensuring that adverse personnel actions are not taken against an individual solely by reason of the physiological reaction of the individual to a question in a polygraph examination, unless—

(i) reasonable efforts are first made independently to determine through alternative means, the veracity of the response of the individual to the question; and

(ii) the Director of the Federal Bureau of Investigation determines personally that the personnel action is justified;

(C) ensuring quality assurance and quality control in accordance with any guidance provided by the Department of Defense Polygraph Institute and the Director of Central Intelligence; and

(D) allowing any employee or contractor who is the subject of a counterintelligence screening polygraph examination under the polygraph program, upon written request, to have prompt access to any unclassified reports regarding an examination that relates to any adverse personnel action taken with respect to the individual.

SEC. 434. REPORT ON FURTHER ENHANCEMENT OF FBI PERSONNEL SECURITY PROGRAM.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to Congress a report setting forth recommendations for any legislative action that the Director considers appropriate in order to enhance the personnel security program of the Federal Bureau of Investigation.

(b) POLYGRAPH REVIEW RESULTS.—Any recommendation under subsection (a) regarding the use of polygraphs shall take into account the results of the Polygraph Review.

Subtitle D—Reports

SEC. 441. REPORT ON LEGAL AUTHORITY FOR FBI PROGRAMS AND ACTIVITIES.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Attorney General shall submit to Congress a report describing the statutory and other legal authority for all programs and activities of the Federal Bureau of Investigation.

(b) CONTENTS.—The report submitted under subsection (a) shall describe—

(1) the titles within the United States Code and the statutes for which the Federal Bureau of Investigation exercises investigative responsibility;

(2) each program or activity of the Federal Bureau of Investigation that has express statutory authority and the statute which provides that authority; and

(3) each program or activity of the Federal Bureau of Investigation that does not have express statutory authority, and the source of the legal authority for that program or activity.

(c) RECOMMENDATIONS.—The report submitted under subsection (a) shall recommend whether—

(1) the Federal Bureau of Investigation should continue to have investigative responsibility for each statute for which the Federal Bureau of Investigation currently has investigative responsibility;

(2) the legal authority for any program or activity of the Federal Bureau of Investigation should be modified or repealed;

(3) the Federal Bureau of Investigation should have express statutory authority for any program or activity of the Federal Bureau of Investigation for which the Federal Bureau of Investigation does not currently have express statutory authority; and

(4) the Federal Bureau of Investigation should—

(A) have authority for any new program or activity; and

(B) express statutory authority with respect to any new programs or activities.

Subtitle E—Ending the Double Standard

SEC. 451. ALLOWING DISCIPLINARY SUSPENSIONS OF MEMBERS OF THE SENIOR EXECUTIVE SERVICE FOR 14 DAYS OR LESS.

Section 7542 of title 5, United States Code, is amended by striking ''for more than 14 days''.

SEC. 452. SUBMITTING OFFICE OF PROFESSIONAL RESPONSIBILITY REPORTS TO CONGRESSIONAL COMMITTEES.

(a) IN GENERAL.—For each of the 5 years following the date of enactment of this Act, the Office of the Inspector General shall submit to the chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives an annual report to be completed by the Federal Bureau of Investigation, Office of Professional Responsibility and provided to the Inspector General, which sets forth—

(1) basic information on each investigation completed by that Office;

(2) the findings and recommendations of that Office for disciplinary action; and

(3) what, if any, action was taken by the Director of the Federal Bureau of Investigation or the designee of the Director based on any such recommendation.

(b) CONTENTS.—In addition to all matters already included in the annual report described in subsection (a), the report shall also include an analysis of—

(1) whether senior Federal Bureau of Investigation employees and lower level Federal Bureau of Investigation personnel are being disciplined and investigated similarly; and

(2) whether any double standard is being employed to more senior employees with respect to allegations of misconduct.

Subtitle F—Enhancing Security at the Department of Justice

SEC. 461. REPORT ON THE PROTECTION OF SECURITY AND INFORMATION AT THE DEPARTMENT OF JUSTICE.

Not later than 9 months after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the manner in which the Security and Emergency Planning Staff, the Office of Intelligence Policy and Review, and the Chief Information Officer of the Department of Justice plan to improve the protection of security and information at the Department of Justice, including a plan to establish secure electronic communications between the Federal Bureau of Investigation and the Office of Intelligence Policy and Review for processing information related to the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

SEC. 462. AUTHORIZATION FOR INCREASED RESOURCES TO PROTECT SECURITY AND INFORMATION.

There are authorized to be appropriated to the Department of Justice for the activities of the Security and Emergency Planning Staff to meet the increased demands to provide personnel, physical, information, technical, and litigation security for the Department of Justice, to prepare for terrorist threats and other emergencies, and to review security compliance by components of the Department of Justice—

(1) $13,000,000 for fiscal years 2004 and 2005;

(2) $17,000,000 for fiscal year 2006; and

(3) $22,000,000 for fiscal year 2007.

SEC. 463. AUTHORIZATION FOR INCREASED RESOURCES TO FULFILL NATIONAL SECURITY MISSION OF THE DEPARTMENT OF JUSTICE.

There are authorized to be appropriated to the Department of Justice for the activities of the Office of Intelligence Policy and Review to help meet the increased personnel demands to combat terrorism, process applications to the Foreign Intelligence Surveillance Court, participate effectively in counterespionage investigations, provide policy analysis and oversight on national security matters, and enhance secure computer and telecommunications facilities—

(1) $7,000,000 for fiscal years 2004 and 2005;

(2) $7,500,000 for fiscal year 2006; and

(3) $8,000,000 for fiscal year 2007.

SA 3920. Mr. LEAHY (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 177, after line 17, add the following:

Subtitle D—Foreign Intelligence Surveillance

SEC. 231. SHORT TITLE.

This subtitle may be cited as the ''Domestic Surveillance Oversight Act of 2004''.

SEC. 232. IMPROVEMENTS TO FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) RULES AND PROCEDURES FOR FISA COURTS.—Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by adding at the end the following new subsection:

''(e)(1) The courts established pursuant to subsections (a) and (b) may establish such rules and procedures, and take such actions, as are reasonably necessary to administer their responsibilities under this Act.

''(2) The rules and procedures established under paragraph (1), and any modifications of such rules and procedures, shall be recorded, and shall be transmitted to the following:

''(A) All of the judges on the court established pursuant to subsection (a).

''(B) All of the judges on the court of review established pursuant to subsection (b).

''(C) The Chief Justice of the United States.

''(D) The Committee on the Judiciary of the Senate.

''(E) The Select Committee on Intelligence of the Senate.

''(F) The Committee on the Judiciary of the House of Representatives.

''(G) The Permanent Select Committee on Intelligence of the House of Representatives.''.

(b) REPORTING REQUIREMENTS.—(1) The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is further amended—

(A) by redesignating title VI as title VII, and section 601 as section 701, respectively; and

(B) by inserting after title V the following new title:

''TITLE VI—PUBLIC REPORTING REQUIREMENT

''PUBLIC REPORT OF THE ATTORNEY GENERAL

''SEC. 601. In addition to the reports required by sections 107, 108, 306, 406, and 502, in April of each year, the Attorney General shall issue a public report setting forth with respect to the preceding calendar year—

''(1) the aggregate number of United States persons targeted for orders issued under this Act, including those targeted for—

''(A) electronic surveillance under section 105;

''(B) physical searches under section 304;

''(C) pen registers under section 402; and

''(D) access to records under section 501;

''(2) the number of times that the Attorney General has authorized that information obtained under such sections or any information derived therefrom may be used in a criminal proceeding;

''(3) the number of times that a statement was completed pursuant to section 106(b), 305(c), or 405(b) to accompany a disclosure of information acquired under this Act for law enforcement purposes; and

''(4) in a manner consistent with the protection of the national security of the United States—

''(A) the portions of the documents and applications filed with the courts established under section 103 that include significant construction or interpretation of the provisions of this Act or any provision of the

United States Constitution, not including the facts of any particular matter, which may be redacted;

''(B) the portions of the opinions and orders of the courts established under section 103 that include significant construction or interpretation of the provisions of this Act or any provision of the United States Constitution, not including the facts of any particular matter, which may be redacted; and

''(C) in the first report submitted under this section, the matters specified in subparagraphs (A) and (B) for all documents and applications filed with the courts established under section 103, and all otherwise unpublished opinions and orders of that court, for the 4 years before the preceding calendar year in addition to that year.''.

(2) The table of contents for that Act is amended by striking the items for title VI and inserting the following new items:

''TITLE VI—PUBLIC REPORTING REQUIREMENT

''Sec. 601. Public report of the Attorney General.

''TITLE VII—EFFECTIVE DATE

''Sec. 701. Effective date.''.

SEC. 233. ADDITIONAL IMPROVEMENTS OF CONGRESSIONAL OVERSIGHT OF SURVEILLANCE ACTIVITIES.

(a) TITLE 18, UNITED STATES CODE.—Section 2709(e) of title 18, United States Code, is amended by adding at the end the following new sentence: ''The information shall include a separate statement of all such requests made of institutions operating as public libraries or serving as libraries of secondary schools or institutions of higher education.''.

(b) RIGHT TO FINANCIAL PRIVACY ACT OF 1978.—Section 1114(a)(5)(C) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(5)(C)) is amended to read as follows:

''(C)(i) On a semiannual basis the Attorney General shall fully inform the congressional intelligence committees, the Committee on the Judiciary of the House of Representatives, and the Committee on the Judiciary of the Senate concerning all requests made pursuant to this paragraph.

''(ii) In the case of the semiannual reports required to be submitted under clause (i) to the congressional intelligence committees, the submittal dates for such reports shall be as provided in section 507 of the National Security Act of 1947.

''(iii) In this subparagraph, the term 'congressional intelligence committees' has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).''.

(c) FAIR CREDIT REPORTING ACT.—Section 625(h)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681u(h)(1)), as amended by section 811(b)(8)(B) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306), is further amended—

(1) by striking ''and the Committee on Banking, Finance and Urban Affairs of the House of Representatives'' and inserting '', the Committee on Financial Services, and the Committee on the Judiciary of the House of Representatives''; and

(2) by striking ''and the Committee on Banking, Housing, and Urban Affairs of the Senate'' and inserting '', the Committee on Banking, Housing, and Urban Affairs, and the Committee on the Judiciary of the Senate''.

SA 3921. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ANTHRAX VICTIMS FUND.

(a) REFERENCES.—Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered a reference to the September 11th Victim Compensation Fund of 2001 (Public Law 107–42; 49 U.S.C. 40101 note).

(b) COMPENSATION FOR VICTIMS OF TERRORIST ACTS.—

(1) DEFINITIONS.—Section 402(6) is amended by inserting ''or related to a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001'' before the period.

(2) PURPOSE.—Section 403 is amended by inserting ''or as a result of a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001'' before the period.

(3) DETERMINATION OF ELIGIBILITY FOR COMPENSATION.—

(A) CLAIM FORM CONTENTS.—Section 405(a)(2)(B) is amended—

(i) in clause (i), by inserting ''or as a result of a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001'' before the semicolon;

(ii) in clause (ii), by inserting ''or terrorist-related laboratory-confirmed anthrax infection'' before the semicolon; and

(iii) in clause (iii), by inserting ''or terrorist-related laboratory-confirmed anthrax infection'' before the period.

(B) LIMITATION.—Section 405(a)(3) is amended by striking ''2 years'' and inserting ''3 years''.

(C) COLLATERAL COMPENSATION.—Section 405(b)(6) is amended by inserting ''or as a result of a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001'' before the period.

(D) ELIGIBILITY.—

(i) INDIVIDUALS.—Section 405(c)(2) is amended—

(I) in subparagraph (B), by striking ''or'' after the semicolon;

(II) in subparagraph (C)—

(aa) by striking ''or (B)'' and inserting '', (B), or (C)''; and

(bb) striking ''(C)'' and inserting ''(D)''; and

(III) by inserting after subparagraph (B) the following:

''(C) an individual who suffered physical harm or death as a result of a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001; or ''.

(ii) REQUIREMENTS.—Section 405(c)(3) is amended—

(I) in the heading for subparagraph (B) by inserting ''RELATING TO SEPTEMBER 11TH TERRORIST ACTS'' before the period; and

(II) by adding at the end the following:

''(C) LIMITATION ON CIVIL ACTION RELATING TO OTHER TERRORIST ACTS.—

''(i) IN GENERAL.—Upon the submission of a claim under this title, the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001. The preceding sentence does not apply to a civil action to recover any collateral source obligation based on contract, or to a civil action against any person who is a knowing participant in any conspiracy to commit any terrorist act.

''(ii) PENDING ACTIONS.—In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this title unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 4 of the Anthrax Victims Fund Fairness Act of 2003.

''(D) INDIVIDUALS WITH PRIOR COMPENSATION.—

''(i) IN GENERAL.—Subject to clause (ii), an individual is not an eligible individual for purposes of this subsection if that individual, or the estate of that individual, has received any compensation from a civil action or settlement based on tort related to a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001.

''(ii) EXCEPTION.—Clause (i) shall not apply to compensation received from a civil action against any person who is a knowing participant in any conspiracy to commit any terrorist act.''.

(iii) INELIGIBILITY OF PARTICIPANTS AND CONSPIRATORS.—Section 405(c) is amended by adding at the end the following:

''(4) INELIGIBILITY OF PARTICIPANTS AND CONSPIRATORS.—An individual, or a representative of that individual, shall not be eligible to receive compensation under this title if that individual is identified by the Attorney General to have been a participant or conspirator in a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001.''.

(c) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Attorney General, in consultation with the Special Master, shall promulgate regulations to carry out the amendments made by this section, including regulations with respect to—

(1) forms to be used in submitting claims under this Act;

(2) the information to be included in such forms;

(3) procedures for hearing and the presentation of evidence;

(4) procedures to assist an individual in filing and pursuing claims under this section; and

(5) other matters determined appropriate by the Attorney General.

SA 3922. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—SAFE ACT

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Security and Freedom Ensured Act of 2004'' or the ''SAFE Act''.

SEC. ___02. LIMITATION ON ROVING WIRETAPS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 105(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(c)) is amended—

(1) in paragraph (1), by striking subparagraphs (A) and (B) and inserting the following:

''(A)(i) the identity of the target of electronic surveillance, if known; or

''(ii) if the identity of the target is not known, a description of the target and the nature and location of the facilities and places at which the electronic surveillance will be directed;

''(B)(i) the nature and location of each of the facilities or places at which the electronic surveillance will be directed, if known; and

''(ii) if any of the facilities or places are unknown, the identity of the target;''; and

(2) in paragraph (2)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(B) by inserting after subparagraph (A), the following:

''(B) in cases where the facility or place at which the surveillance will be directed is not known at the time the order is issued, that the surveillance be conducted only when the presence of the target at a particular facility or place is ascertained by the person conducting the surveillance;''.

SEC. ___03. LIMITATION ON AUTHORITY TO DELAY NOTICE OF SEARCH WARRANTS.

(a) IN GENERAL.—Section 3103a of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''may have an adverse result (as defined in section 2705)'' and inserting ''will—

''(A) endanger the life or physical safety of an individual;

''(B) result in flight from prosecution; or

''(C) result in the destruction of, or tampering with, the evidence sought under the warrant''; and

(B) in paragraph (3), by striking ''within a reasonable period'' and all that follows and inserting ''not later than 7 days after the execution of the warrant, which period may be extended by the court for an additional period of not more than 7 days each time the court finds reasonable cause to believe, pursuant to a request by the Attorney General, the Deputy Attorney General, or an Associate Attorney General, that notice of the execution of the warrant will—

''(A) endanger the life or physical safety of an individual;

''(B) result in flight from prosecution; or

''(C) result in the destruction of, or tampering with, the evidence sought under the warrant.''; and

(2) by adding at the end the following:

''(c) REPORTS.—

''(1) IN GENERAL.—Every 6 months, the Attorney General shall submit a report to Congress summarizing, with respect to warrants under subsection (b), the requests made by the Department of Justice for delays of notice and extensions of delays of notice during the previous 6-month period.

''(2) CONTENTS.—Each report submitted under paragraph (1) shall include, for the preceding 6-month period—

''(A) the number of requests for delays of notice with respect to warrants under subsection (b), categorized as granted, denied, or pending; and

''(B) for each request for delayed notice that was granted, the number of requests for extensions of the delay of notice, categorized as granted, denied, or pending.

''(3) PUBLIC AVAILABILITY.—The Attorney General shall make the report submitted under paragraph (1) available to the public.''.

(b) SUNSET PROVISION.—

(1) IN GENERAL.—Subsections (b) and (c) of section 3103a of title 18, United States Code, shall cease to have effect on December 31, 2005.

(2) EXCEPTION.—With respect to any particular foreign intelligence investigation that began before the date on which the provisions referred to in paragraph (1) cease to have effect, or with respect to any particular offense or potential offense that began or occurred before the date on which the provisions referred to in paragraph (1) cease to have effect, such provisions shall continue in effect.

SEC. ___04. PRIVACY PROTECTIONS FOR LIBRARY, BOOKSELLER, AND OTHER PERSONAL RECORDS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) APPLICATIONS FOR ORDERS.—Section 501(b)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(b)(2)) is amended—

(1) by striking ''shall specify that the records'' and inserting ''shall specify that—

''(A) the records''; and

(2) by striking the period at the end and inserting the following: ''; and

''(B) there are specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or an agent of a foreign power.''.

(b) ORDERS.—Section 501(c)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(c)(1)) is amended by striking ''finds that'' and all that follows and inserting ''finds that—

''(A) there are specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or an agent of a foreign power; and

''(B) the application meets the other requirements of this section.''.

(c) OVERSIGHT OF REQUESTS FOR PRODUCTION OF RECORDS.—Section 502(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1862) is amended to read as follows:

''(a) On a semiannual basis, the Attorney General shall, with respect to all requests for the production of tangible things under section 501, fully inform—

''(1) the Select Committee on Intelligence of the Senate;

''(2) the Committee on the Judiciary of the Senate;

''(3) the Permanent Select Committee on Intelligence of the House of Representatives; and

''(4) the Committee on the Judiciary of the House of Representatives.''.

SEC. ___05. PRIVACY PROTECTIONS FOR COMPUTER USERS AT LIBRARIES UNDER NATIONAL SECURITY AUTHORITY.

Section 2709 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''A wire'' and inserting the following:

''(1) IN GENERAL.—A wire''; and

(B) by adding at the end the following:

''(2) EXCEPTION.—A library shall not be treated as a wire or electronic communication service provider for purposes of this section.''; and

(2) by adding at the end the following:

''(f) DEFINED TERM.—In this section, the term 'library' means a library (as that term is defined in section 213(2) of the Library Services and Technology Act (20 U.S.C. 9122(2)) whose services include access to the Internet, books, journals, magazines, newspapers, or other similar forms of communication in print or digitally to patrons for their use, review, examination, or circulation.''.

SEC. ___06. EXTENSION OF PATRIOT SUNSET PROVISION.

Section 224(a) of the USA PATRIOT ACT (18 U.S.C. 2510 note) is amended—

(1) by striking ''213, 216, 219,''; and

(2) by inserting ''and section 505'' after ''by those sections)''.

SA 3923. Mr. DURBIN (for himself, Mr. LEAHY, and Mr. SARBANES) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 154, strike lines 1 through 3 and insert the following:

(1) analyze and review actions the executive branch takes to protect the Nation from terrorism, ensuring that the need for such actions is balanced with the need to protect privacy and civil liberties; and

On page 155, line 6 strike beginning with ''has'' through line 9 and insert the following: ''has established—

''(i) that the need for the power is balanced with the need to protect privacy and civil liberties;''.

On page 166, strike lines 4 through 6 and insert the following: ''element has established—

''(i) that the need for the power is balanced with the need to protect privacy and civil liberties;''.

SA 3924. Mr. ROBERTS (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 124, after line 12, insert the following:

(g) ENTERPRISE ARCHITECTURE.—(1) The Director of the Federal Bureau of Investigation shall—

(A) maintain an up to date enterprise architecture or computer needs blueprint; and

(B) report annually to Congress on this enterprise architecture and whether the Federal Bureau of Investigation is complying with the architecture.

(2) If the Director of the Federal Bureau of Investigation determines that the Federal Bureau of Investigation will not be able to comply with the architecture within any 3-month period—

(A) the Director shall make an interim report to Congress on why there was a failure to comply; and

(B) if the reason is substantially related to resources, the Director shall submit with the interim notice a request for additional funding that would resolve the problem or a request to reprogram funds that would resolve the problem.

SA 3925. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

TITLE ____—SOCIAL SECURITY PROTECTION

SEC. ____01. AMENDMENTS TO THE SOCIAL SECURITY ACT RELATING TO IDENTIFICATION OF INDIVIDUALS.

(a) ANTIFRAUD MEASURES FOR SOCIAL SECURITY CARDS.—Section 205(c)(2)(G) of the Social Security Act (42 U.S.C. 405(c)(2)(G)) is amended—

(1) by inserting ''(i)'' after ''(G)'';

(2) by striking ''banknote paper'' and inserting ''durable plastic or similar material''; and

(3) by adding at the end the following new clauses:

''(ii) Each Social security card issued under this subparagraph shall include an encrypted electronic identification strip which shall be unique to the individual to whom the card is issued and such biometric information as is determined by the Commissioner and the Secretary of Homeland Security to be necessary for identifying the person to whom to the card is issued. The Commissioner shall develop such electronic identification strip in consultation with the Secretary of Homeland Security, so as to enable employers to use such strip in accordance with section ____03(b) of the National Intelligence Reform Act of 2004 to obtain access to the Employment Eligibility Database established by such Secretary pursuant to section ____02 of such Act with respect to the individual to whom the card is issued.

''(iii) The Commissioner shall provide for the issuance (or reissuance) to each individual who—

''(I) has been assigned a Social Security account number under subparagraph (B),

''(II) has attained the minimum age applicable, in the jurisdiction in which such individual engages in employment, for legally engaging in such employment, and

''(III) files application for such card under this clause in such form and manner as shall be prescribed by the Commissioner,

a social security card which meets the preceding requirements of this subparagraph.

''(iv) The Commissioner shall maintain an ongoing effort to develop measures in relation to the social security card and the issuance thereof to preclude fraudulent use thereof.''.

(b) SHARING OF INFORMATION WITH THE SECRETARY OF HOMELAND SECURITY.—Section 205(c)(2) of such Act is amended by adding at the end the following new subparagraph:

''(I) Upon the issuance of a Social Security account number under subparagraph (B) to any individual or the issuance of a social security card under subparagraph (G) to any individual, the Commissioner of Social Security shall transmit to the Secretary of Homeland Security such information received by the Commissioner in the individual's application for such number or such card as such Secretary determines necessary and appropriate for administration of the National Intelligence Reform Act of 2004.''.

(c) PROGRAM TO ENSURE VERACITY OF APPLICATION INFORMATION.—The Commissioner of Social Security, in consultation with the Secretary of Homeland Security, shall develop a program to ensure the accuracy and veracity of the information and evidence supplied to the Commissioner under section 205(c)(2)(B)(ii) of the Social Security Act (42 U.S.C. 405(c)(2)(B)(ii)) in connection with an application for a social security number.

(d) EFFECTIVE DATES.—The amendment made by subsection (a) shall apply with respect to social security cards issued after 2 years after the date of the enactment of this Act. The amendment made by subsection (b) shall apply with respect to the issuance of Social Security account numbers and social security cards after 2 years after the date of the enactment of this Act.

SEC. ____02. EMPLOYMENT ELIGIBILITY DATABASE.

(a) IN GENERAL.—The Secretary of Homeland Security (hereinafter in this title referred to as ''the Secretary'') shall establish and maintain an Employment Eligibility Database. The Database shall include data comprised of the citizenship status of individuals and the work and residency eligibility information (including expiration dates) with respect to individuals who are not citizens or nationals of the United States but are authorized to work in the United States. Such data shall include all such data maintained by the Department of Homeland Security as of the date of the establishment of such database and information obtained from the Commissioner of Social Security pursuant to section 205(c)(2)(I) of the Social Security Act. The Secretary shall maintain ongoing consultations with the Commissioner to ensure efficient and effective operation of the Database.

(b) INCORPORATION OF ONGOING PILOT PROGRAMS.—To the extent that the Secretary determines appropriate in furthering the purposes of subsection (a), the Secretary may incorporate the information, processes, and procedures employed in connection with the Citizen Attestation Verification Pilot Program and the Basic Pilot Program into the operation and maintenance of the Database under subsection (a).

(c) CONFIDENTIALITY.—No officer or employee of the Department of Homeland Security shall have access to any information contained in the Database for any purpose other than the establishment of a system of records necessary for the effective administration of this title or for national security related purposes (as determined by the Commissioner of Social Security in consultation with the Secretary of State and the Secretary of Homeland Security). The Secretary shall restrict access to such information to officers and employees of the United States whose duties or responsibilities require access for the administration or enforcement of the provisions of this title or for national security related purposes (as determined under the preceding sentence). The Secretary shall provide such other safeguards as the Secretary determines to be necessary or appropriate to protect the confidentiality of information contained in the Database.

(d) DEADLINE FOR MEETING REQUIREMENTS.—The Secretary shall complete the establishment of the Database and provide for the efficient and effective operation of the Database in accordance with this section not later than 2 years after the date of the enactment of this Act.

SEC. ____03. REQUIREMENTS RELATING TO INDIVIDUALS COMMENCING WORK IN THE UNITED STATES.

(a) REQUIREMENTS FOR EMPLOYEES.—No individual may commence employment with an employer in the United States unless such individual has—

(1) obtained a social security card issued by the Commissioner of Social Security meeting the requirements of section 205(c)(2)(G)(iii) of the Social Security Act, and

(2) displayed such card to the employer pursuant to the employer's request for purposes of the verification required under subsection (b).

(b) REQUIREMENTS FOR EMPLOYERS.—

(1) IN GENERAL.—No employer may employ an individual in the United States in any capacity if, as soon as practical after such individual has been hired, such individual has not been verified by the employer to have a social security card issued to such individual pursuant to section 205(c)(2)(G) of the Social Security Act and to be authorized to work in the United States in such capacity. Such verification shall be made in accordance with procedures prescribed by the Secretary for the purposes of ensuring against fraudulent use of the card and accurate and prompt verification of the authorization of such individual to work in the United States in such capacity.

(2) VERIFICATION PROCEDURES.—Such procedures shall include use of a card-reader device approved by the Secretary that is capable of reading the electronic identification strip borne by the card and the biometric information included on the card so as to verify the identity of the card holder and the card holder's authorization to work.

(3) ACCESS TO DATABASE.—The Secretary shall ensure that—

(A) by means of such procedures, the employer will have such access to the Employment Eligibility Database maintained by the Secretary so as to enable the employer to obtain information, relating to the identification, citizenship, residency, and work eligibility of the individual seeking employment by the employer in any capacity, which is necessary to inform the employer as to whether the individual is authorized to work for the employer in the United States in such capacity, and

(B) the procedures described in paragraph (2) impose a minimal financial burden on the employer.

(c) EFFECTIVE DATE.—The requirements of this section shall apply with respect to the employment of any individual in any capacity commencing after 2 years after the date of the enactment of this Act.

SEC. ____04. ENFORCEMENT.

(a) CIVIL PENALTIES.—The Secretary may assess a penalty, payable to the Secretary, against any employer who—

(1) continues to employ an individual in the United States in any capacity who is known by the employer not to be authorized to work in the United States in such capacity, or

(2) fails to comply with the procedures prescribed by the Secretary pursuant to section ____03 in connection with the employment of any individual.

Such penalty shall not exceed $50,000 for each occurrence of a violation described in paragraph (1) or (2) with respect to the individual, plus, in the event of the removal or deportation of such individual from the United States based on findings developed in connection with the assessment or collection of such penalty, the costs incurred by the Federal Government in connection with such removal or deportation.

(b) ACTIONS BY THE SECRETARY.—If any person is assessed under subsection (a) and fails to pay the assessment when due, or any person otherwise fails to meet any requirement of this title, the Secretary may bring a civil action in any district court of the United States within the jurisdiction of which such person's assets are located or in which such person resides or is found for the recovery of the amount of the assessment or for appropriate equitable relief to redress the violation or enforce the provisions of this section, and process may be served in any other district. The district courts of the United States shall have jurisdiction over actions brought under this section by the Secretary without regard to the amount in controversy.

(c) CRIMINAL PENALTY.—Any person who—

(1) continues to employ an individual in the United States in any capacity who such person knows not to be authorized to work in the United States in such capacity, or

(2) hires for employment any individual in the United States and fails to comply with the procedures prescribed by the Secretary pursuant to section ____03(b) in connection with the hiring of such individual,

shall upon conviction be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

SEC. ___05. AUTHORIZATIONS OF APPROPRIATIONS.

(a) DEPARTMENT OF HOMELAND SECURITY.—There are authorized to be appropriated to the Department of Homeland Security for each fiscal year beginning on or after October 1, 2004, such sums as are necessary to carry out the provisions of this title.

(b) SOCIAL SECURITY ADMINISTRATION.—There are authorized to be appropriated to the Social Security Administration for each fiscal year beginning on or after October 1, 2004, such sums as are necessary to carry out the amendments made by section ___01.

SEC. ___06. INTEGRATION OF FINGERPRINTING DATABASES.

The Secretary of Homeland Security and the Attorney General of the United States shall jointly undertake to integrate the border-patrol fingerprinting identification system maintained by the Department of Homeland Security with the fingerprint database maintained by the Federal Bureau of Investigation. The integration of databases pursuant to this section shall be completed not later than 2 years after the date of the enactment of this Act.

SEC. ___07. USE OF CARD; RULE OF CONSTRUCTION.

Nothing in this title or the amendments made by this title shall be construed to establish a national identification card, and it is the policy of the United States that the social security card shall not be used as a national identification card and shall only be used for verification of an individual's employment status after an offer of employment has been made and for national security related purposes of the United States (as determined by the Commissioner of Social Security in consultation with the Secretary of State and the Secretary of Homeland Security).

SA 3926. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following new title:

TITLE IV—VISA REQUIREMENTS

SEC. 401. FINDINGS.

Congress makes the following findings:

(1) Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) governs the admission of nonimmigrants to the United States and sets forth the process for that admission.

(2) Section 214(b) of the Immigration and Nationality Act places the burden of proof on a visa applicant to establish ''to the satisfaction of the consular officer, at the time of the application for a visa . . . that he is entitled to a nonimmigrant status''.

(3) The report of the National Commission on Terrorist Attacks Upon the United States included a recommendation that the United States ''combine terrorist travel intelligence, operations, and law enforcement in a strategy to intercept terrorists . . . and constrain terrorist mobility''.

(4) Fifteen of the 19 individuals who participated in the aircraft hijackings on September 11, 2001, were nationals of Saudi Arabia who legally entered the United States after securing nonimmigrant visas despite the fact that they did not adequately meet the burden of proof required by section 214(b) of the Immigration and Nationality Act.

(5) Prior to September 11, 2001, the Department of State allowed consular officers to approve nonimmigrant visa applications that were incomplete, and without conducting face-to-face interviews of many applicants.

(6) Each of the 15 individuals from Saudi Arabia who participated in the aircraft hijackings on September 11, 2001, filed a visa application that contained inaccuracies and omissions that should have prevented such individual from obtaining a visa.

(7) Only one of the hijackers listed an actual address on his visa application. The other hijackers simply wrote answers such as ''California'', ''New York'', or ''Hotel'' when asked to provide a destination inside the United States on the visa application.

(8) Only 3 of the individuals from Saudi Arabia who participated in the aircraft hijackings on September 11, 2001, provided any information in the section of the visa application that requests the name and address of an employer or school in the United States.

(9) The 2002 General Accounting Office report entitled ''Border Security: Visa Process Should Be Strengthened as Antiterrorism Tool'' outlined the written guidelines and practices of the Department of State related to visa issuance and stated that the Department of State allowed for widespread discretion among consular officers in adhering to the burden of proof requirements under section 214(b) of the Immigration and Nationality Act.

(10) The General Accounting Office report further stated that the ''Consular Best Practices Handbook'' of the Department of State gave consular managers and staff the discretion to ''waive personal appearance and interviews for certain nonimmigrant visa applicants''.

(11) Only 2 of the 15 individuals from Saudi Arabia who participated in the aircraft hijackings on September 11, 2001, were interviewed by Department of State consular officers.

(12) If the Department of State had required all consular officers to implement section 214(b) of the Immigration and Nationality Act, conduct face-to-face interviews, and require that visa applications be completely and accurately filled out, those who participated in the aircraft hijackings on September 11, 2001, may have been denied nonimmigrant visas and the tragedy of September 11, 2001, could have been prevented.

SEC. 402. IN PERSON INTERVIEWS OF VISA APPLICANTS.

(a) REQUIREMENT FOR INTERVIEWS.—Section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

''(h) Notwithstanding any other provision of this Act, the Secretary of State shall require every alien applying for a nonimmigrant visa—

''(1) who is at least 12 years of age and not more than 65 years of age to submit to an in person interview with a consular officer unless the requirement for such interview is waived—

''(A) by a consular official and such alien is within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G) or is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof;

''(B) by a consular official and such alien is applying for a visa—

''(i) not more than 12 months after the date on which the alien's prior visa expired;

''(ii) for the classification under section 101(a)(15) for which such prior visa was issued;

''(iii) from the consular post located in the country in which the alien is a national; and

''(iv) the consular officer has no indication that the alien has not complied with the immigration laws and regulations of the United States; or

''(C) by the Secretary of State if the Secretary determines that such waiver is—

''(i) in the national interest of the United States; or

''(ii) necessary as a result of unusual circumstances; and

''(2) notwithstanding paragraph (1), to submit to an in person interview with a consular officer if such alien—

''(A) is not a national of the country in which the alien is applying for a visa;

''(B) was previously refused a visa, unless such refusal was overcome or a waiver of ineligibility has been obtained;

''(C) is listed in the Consular Lookout and Support System (or successor system at the Department of State);

''(D) may not obtain a visa until a security advisory opinion or other Department of State clearance is issued unless such alien is—

''(i) within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G); and

''(ii) not a national of a country that is officially designated by the Secretary of State as a state sponsor of terrorism; or

''(E) is identified as a member of a group or sector that the Secretary of State determines—

''(i) poses a substantial risk of submitting inaccurate information in order to obtain a visa;

''(ii) has historically had visa applications denied at a rate that is higher than the average rate of such denials; or

''(iii) poses a security threat to the United States.''.

(b) CONDUCT DURING INTERVIEWS.—Section 222 of the Immigration and Nationality Act (8 U.S.C. 1202), as amended by subsection (a), is further amended by adding at the end the following new subsection:

''(i) A consular officer who is conducting an in person interview with an alien applying for a visa or other documentation shall—

''(1) make every effort to conduct such interview fairly;

''(2) employ high professional standards during such interview;

''(3) use best interviewing techniques to elicit pertinent information to assess the alien's qualifications, including techniques to identify any potential security concerns posed by the alien;

''(4) provide the alien with an adequate opportunity to present evidence establishing the accuracy of the information in the alien's application; and

''(5) make a careful record of the interview to document the basis for the final action on the alien's application, if appropriate.''.

SEC. 403. VISA APPLICATION REQUIREMENTS.

Section 222(c) of the Immigration and Nationality Act (8 U.S.C. 1202(c)) is amended by inserting ''The alien shall provide complete and accurate information in response to any request for information contained in the application.'' after the second sentence.

SEC. 404. EFFECTIVE DATE.

Notwithstanding section 341 or any other provision of this Act, this title shall take effect 90 days after date of the enactment of this Act.

SA 3927. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

Insert the following in the appropriate place:

TITLE ____—CHEMICAL FACILITIES SECURITY

SEC. ____0. 1. SHORT TITLE.

This title may be cited as the ''Chemical Facilities Security Act of 2004''.

SEC. ____02. DEFINITIONS.

In this title:

(1) ALTERNATIVE APPROACHES.—The term ''alternative approaches'' means ways of reducing the threat of a terrorist release, as well as reducing the consequences of a terrorist release from a chemical source, including approaches that—

(A) use smaller quantities of substances of concern;

(B) replace a substance of concern with a less hazardous substance; or

(C) use less hazardous processes.

(2) CHEMICAL SOURCE.—The term ''chemical source'' means a non-Federal stationary source (as defined in section 112(r)(2) of the Clean Air Act (42 U.S.C. 7412(r)(2))) for which—

(A) the owner or operator is required to complete a risk management plan in accordance with section 112(r)(7)(B)(ii) of the Clean Air Act (42 U.S.C. 7412(r)(7)(B)(ii)); and

(B) the Secretary is required to promulgate implementing regulations under section ____03(a) of this title.

(3) CONSIDERATION.—The term ''consideration'' includes—

(A) an analysis of alternative approaches, including the benefits and risks of such approaches;

(B) the potential of the alternative approaches to prevent or reduce the threat or consequences of a terrorist release;

(C) the cost and technical feasibility of alternative approaches; and

(D) the effect of alternative approaches on product quality, product cost, and employee safety.

(4) DEPARTMENT.—The term ''Department'' means the Department of Homeland Security.

(5) ENVIRONMENT.—The term ''environment'' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(6) OWNER OR OPERATOR.—The term ''owner or operator'' has the meaning given the term in section 112(a) of the Clean Air Act (42 U.S.C. 7412(a)).

(7) RELEASE.—The term ''release'' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(8) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(9) SECURITY MEASURE.—

(A) IN GENERAL.—The term ''security measure'' means an action carried out to ensure or enhance the security of a chemical source.

(B) INCLUSIONS.—The term ''security measure'', with respect to a chemical source, includes measures such as—

(i) an employee training and background check;

(ii) the limitation and prevention of access to controls of the chemical source;

(iii) the protection of the perimeter of the chemical source;

(iv) the installation and operation of intrusion detection sensors;

(v) the implementation of measures to increase computer or computer network security;

(vi) the implementation of other security-related measures to protect against or reduce the threat of—

(I) a terrorist attack on the chemical source; or

(II) the theft of a substance of concern for offsite release in furtherance of an act of terrorism;

(vii) the installation of measures and controls to protect against or reduce the consequences of a terrorist attack; and

(viii) the conduct of any similar security-related activity, as determined by the Secretary.

(10) SUBSTANCE OF CONCERN.—The term ''substance of concern'' means—

(A) a chemical substance present at a chemical source in quantities equal to or exceeding the threshold quantities for the chemical substance, as defined in or established under paragraphs (3) and (5) of section 112(r) of the Clean Air Act (42 U.S.C. 7412(r)); and

(B) such other chemical substance as the Secretary may designate under section ____03(g).

(11) TERRORISM.—The term ''terrorism'' has the meaning given the term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(12) TERRORIST RELEASE.—The term ''terrorist release'' means—

(A) a release from a chemical source into the environment of a substance of concern that is caused by an act of terrorism; and

(B) the theft of a substance of concern by a person for off-site release in furtherance of an act of terrorism.

SEC. ____03. VULNERABILITY ASSESSMENTS AND SITE SECURITY PLANS.

(a) REQUIREMENT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations that require the owner or operator of each chemical source included on the list described in subsection (f)(1)—

(A) to conduct an assessment of the vulnerability of the chemical source to a terrorist release, including identifying hazards that may result from a terrorist release; and

(B) to prepare and implement a site security plan that addresses the results of the vulnerability assessment.

(2) CONTENTS OF SITE SECURITY PLAN.—A site security plan required under the regulations promulgated under paragraph (1) or any other plan determined to be substantially equivalent by the Secretary under subsection (c)—

(A) shall include security measures to significantly reduce the vulnerability of the chemical source covered by the plan to a terrorist release;

(B) shall describe, at a minimum, particular equipment, plans, and procedures that could be implemented or used by or at the chemical source in the event of a terrorist release; and

(C) shall include consideration and, where practicable in the judgment of the owner or operator of the chemical source, implementation of options to reduce the threat of a terrorist release through the use of alternative approaches.

(3) PROMULGATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations establishing procedures, protocols, regulations, and standards for vulnerability assessments and site security plans.

(4) GUIDANCE TO SMALL ENTITIES.—Not later than 1 year after the date of enactment of this Act, the Secretary shall publish guidance to assist small entities in complying with paragraph (2)(C).

(5) THREAT INFORMATION.—To the maximum extent practicable under applicable authority and in the interests of national security, the Secretary shall provide to an owner or operator of a chemical source required to prepare a vulnerability assessment and site security plan threat information that is relevant to the chemical source.

(6) COORDINATED ASSESSMENTS AND PLANS.—The regulations promulgated under paragraphs (1) and (3) shall permit the development and implementation of coordinated vulnerability assessments and site security plans in any case in which more than 1 chemical source is operating at a single location or at contiguous locations, including cases in which a chemical source is under the control of more than 1 owner or operator.

(b) CERTIFICATION AND SUBMISSION.—

(1) IN GENERAL.—Each owner or operator of a chemical source shall certify in writing to the Secretary that the owner or operator has completed a vulnerability assessment and has developed and implemented or is implementing a site security plan in accordance with this title, including—

(A) regulations promulgated under paragraphs (1) and (3) of subsection (a); and

(B) any applicable procedures, protocols, or standards endorsed or recognized by the Secretary under subsection (c)(1).

(2) SUBMISSION.—Not later than 18 months after the date of promulgation of regulations under paragraphs (1) and (3) of subsection (a), an owner or operator of a chemical source shall provide to the Secretary copies of the vulnerability assessment and site security plan of the chemical source for review.

(3) OVERSIGHT.—The Secretary shall, at such times and places as the Secretary determines to be appropriate, conduct or require the conduct of vulnerability assessments and other activities (including third-party audits) to ensure and evaluate compliance with—

(A) this title (including regulations promulgated under paragraphs (1) and (3) of subsection (a)); and

(B) other applicable procedures, protocols, or standards endorsed or recognized by the Secretary under subsection (c)(1).

(4) SUBMISSION OF CHANGES.—The owner or operator of a chemical source shall—

(A) provide to the Secretary a description of any significant change that is made to the vulnerability assessment or site security plan required for the chemical source under this section, not later than 90 days after the date the change is made; and

(B) update the certification of the vulnerability assessment or site security plan.

(c) SPECIFIED STANDARDS.—

(1) EXISTING PROCEDURES, PROTOCOLS, AND STANDARDS.—Upon submission of a petition by any person to the Secretary, and after receipt by that person of a written response from the Secretary, any procedures, protocols, and standards established by the Secretary under regulations promulgated under subsection (a)(3) may—

(A) endorse or recognize procedures, protocols, regulations, and standards—

(i) that are established by—

(I) industry;

(II) State or local authorities; or

(III) other applicable law; and

(ii) the requirements of which the Secretary determines to be—

(I) substantially equivalent to the requirements under subsections (a)(1), (a)(2), and (a)(3); and

(II) in effect on or after the date of enactment of this Act; and

(B) require that a vulnerability assessment and site security plan address a particular threat or type of threat.

(2) NOTIFICATION OF SUBSTANTIAL EQUIVALENCY.—If the Secretary endorses or recognizes existing procedures, protocols, regulations, and standards described in paragraph (1)(A), the Secretary shall provide to the person that submitted the petition a notice that the procedures, protocols, regulations, and standards are substantially equivalent to the requirements of paragraph (1) and paragraphs (1) and (3) of subsection (a).

(3) NO ACTION BY SECRETARY.—If the Secretary does not endorse or recognize existing

procedures, protocols, and standards described in paragraph (1)(A), the Secretary shall provide to each person that submitted a petition under paragraph (1) a written notification that includes a clear explanation of the reasons why the endorsement or recognition was not made.

(d) PREPARATION OF ASSESSMENTS AND PLANS.—As of the date of endorsement or recognition by the Secretary of a particular procedure, protocol, or standard under subsection (c)(1)(A), any vulnerability assessment or site security plan that is prepared by a chemical source before, on, or after the date of endorsement or recognition of, and in accordance with, that procedure, protocol, or standard, shall, for the purposes of subsection (b)(3) and section ___04, be judged by the Secretary against that procedure, protocol, or standard rather than the relevant regulations promulgated under subsection (c) and paragraphs (1) and (3) of subsection (a) (including such a vulnerability assessment or site security plan prepared before, on, or after the date of enactment of this Act).

(e) REGULATORY CRITERIA.—In exercising the authority under subsections (a) and (c) with respect to a chemical source, the Secretary shall consider—

(1) the likelihood that a chemical source will be the target of terrorism;

(2) the nature and quantity of the substances of concern present at a chemical source;

(3) the potential extent of death, injury, or serious adverse effects to human health or the environment that would result from a terrorist release;

(4) the potential harm to critical infrastructure and national security from a terrorist release;

(5) cost and technical feasibility;

(6) scale of operations; and

(7) such other security-related factors as the Secretary determines to be appropriate and necessary to protect the public health and welfare, critical infrastructure, and national security.

(f) LIST OF CHEMICAL SOURCES.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall develop a list of chemical sources in existence as of that date.

(2) CONSIDERATIONS.—In developing the list under paragraph (1), the Secretary shall consider the criteria specified in subsection (e).

(3) FUTURE DETERMINATIONS.—Not later than 3 years after the date of promulgation of regulations under subsection (c) and paragraphs (1) and (3) of subsection (a), and every 3 years thereafter, the Secretary shall, after considering the criteria described in subsection (e)—

(A) determine whether additional facilities (including, as of the date of the determination, facilities that are operational and facilities that will become operational in the future) shall be considered to be a chemical source under this title;

(B) determine whether any chemical source identified on the most recent list under paragraph (1) no longer presents a risk sufficient to justify retention of classification as a chemical source under this title; and

(C) update the list as appropriate.

(4) REGULATIONS.—The Secretary may make a determination under this subsection in regulations promulgated under paragraphs (1) and (3) of subsection (a).

(g) DESIGNATION, EXEMPTION, AND ADJUSTMENT OF THRESHOLD QUANTITIES OF SUBSTANCES OF CONCERN.—

(1) IN GENERAL.—The Secretary may, by regulation—

(A) designate certain chemical substances in particular threshold quantities as substances of concerns under this title;

(B) exempt certain chemical substances from designation as substances of concern under this title; and

(C) adjust the threshold quantity of a chemical substance.

(2) CONSIDERATIONS.—In designating or exempting a chemical substance or adjusting the threshold quantity of a chemical substance under paragraph (1), the Secretary shall consider the potential extent of death, injury, or serious adverse effects to human health or the environment that would result from a terrorist release of the chemical substance.

(3) REGULATIONS.—The Secretary may make a designation, exemption, or adjustment under paragraph (1) in regulations promulgated under paragraphs (1) and (3) of subsection (a).

(h) 5-YEAR REVIEW.—Not later than 5 years after the date of certification of a vulnerability assessment and a site security plan under subsection (b)(1), and not less often than every 5 years thereafter (or on such a schedule as the Secretary may establish by regulation), the owner or operator of the chemical source covered by the vulnerability assessment or site security plan shall—

(1) review the adequacy of the vulnerability assessment and site security plan; and

(2)(A) certify to the Secretary that the chemical source has completed the review and implemented any modifications to the site security plan; and

(B) submit to the Secretary a description of any changes to the vulnerability assessment or site security plan.

(i) PROTECTION OF INFORMATION.—

(1) DISCLOSURE EXEMPTION.—Except with respect to certifications specified in subsections (b)(1)(A) and (h)(2)(A), vulnerability assessments and site security plans obtained in accordance with this title, and materials developed or produced exclusively in preparation of those documents (including information shared with Federal, State, and local government entities under paragraphs (3) through (5)), shall be exempt from disclosure under—

(A) section 552 of title 5, United States Code; or

(B) any State or local law providing for public access to information.

(2) NO EFFECT ON OTHER DISCLOSURE.—Nothing in this title affects the handling, treatment, or disclosure of information obtained from chemical sources under any other law.

(3) DEVELOPMENT OF PROTOCOLS.—

(A) IN GENERAL.—The Secretary, in consultation with the Director of the Office of Management and Budget and appropriate Federal law enforcement and intelligence officials, and in a manner consistent with existing protections for sensitive or classified information, shall, by regulation, establish confidentiality protocols for maintenance and use of information that is obtained from owners or operators of chemical sources and provided to the Secretary under this title.

(B) REQUIREMENTS FOR PROTOCOLS.—A protocol established under subparagraph (A) shall ensure that—

(i) each copy of a vulnerability assessment or site security plan submitted to the Secretary, all information contained in or derived from that assessment or plan, and other information obtained under section ___06, is maintained in a secure location; and

(ii) except as provided in paragraph (5)(B), or as necessary for judicial enforcement, access to the copies of the vulnerability assessments and site security plans submitted to the Secretary, and other information obtained under section ___06, shall be limited to persons designated by the Secretary.

(4) DISCLOSURE IN CIVIL PROCEEDINGS.—In any Federal or State civil or administrative proceeding in which a person seeks to compel the disclosure or the submission as evidence of sensitive information contained in a vulnerability assessment or security plan required by subsection (a) or (b) and is not otherwise subject to disclosure under other provisions of law—

(A) the information sought may be submitted to the court under seal; and

(B) the court, or any other person, shall not disclose the information to any person until the court, in consultation with the Secretary, determines that the disclosure of the information does not pose a threat to public security or endanger the life or safety of any person.

(5) PENALTIES FOR UNAUTHORIZED DISCLOSURE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any individual referred to in paragraph (3)(B)(ii) who acquires any information described in paragraph (3)(A) (including any reproduction of that information or any information derived from that information), and who knowingly or recklessly discloses the information, shall—

(i) be imprisoned not more than 1 year, fined in accordance with chapter 227 of title 18, United States Code (applicable to class A misdemeanors), or both; and

(ii) be removed from Federal office or employment.

(B) EXCEPTIONS.—

(i) IN GENERAL.—Subparagraph (A) shall not apply to a person described in that subparagraph that discloses information described in paragraph (3)(A)—

(I) to an individual designated by the Secretary under paragraph (3)(B)(ii);

(II) for the purpose of section ___06; or

(III) for use in any administrative or judicial proceeding to impose a penalty for failure to comply with a requirement of this title.

(ii) LAW ENFORCEMENT OFFICIALS AND FIRST RESPONDERS.—Notwithstanding subparagraph (A), an individual referred to in paragraph (3)(B)(ii) who is an officer or employee of the United States may share with a State or local law enforcement or other official (including a first responder) the contents of a vulnerability assessment or site security plan, or other information described in that paragraph, to the extent disclosure is necessary to carry out this title.

SEC. ___04. ENFORCEMENT.

(a) FAILURE TO COMPLY.—If an owner or operator of a chemical source fails to certify or submit a vulnerability assessment or site security plan in accordance with this title, the Secretary may issue an order requiring the certification and submission of a vulnerability assessment or site security plan in accordance with section ___03(b).

(b) DISAPPROVAL.—The Secretary may disapprove under subsection (a) a vulnerability assessment or site security plan submitted under section ___03(b) if the Secretary determines that—

(1) the vulnerability assessment or site security plan does not comply with regulations promulgated under paragraph (1) and (3) of subsection (a) or the procedure, protocol, or standard endorsed or recognized under section ___03(c); or

(2) the site security plan, or the implementation of the site security plan, is insufficient to address—

(A) the results of a vulnerability assessment of a chemical source; or

(B) a threat of a terrorist release.

(c) COMPLIANCE.—If the Secretary disapproves a vulnerability assessment or site

security plan of a chemical source under subsection (b), the Secretary shall—

(1) provide the owner or operator of the chemical source a written notification of the determination that includes a clear explanation of deficiencies in the vulnerability assessment, site security plan, or implementation of the assessment or plan;

(2) consult with the owner or operator of the chemical source to identify appropriate steps to achieve compliance; and

(3) if, following that consultation, the owner or operator of the chemical source does not achieve compliance in accordance by such date as the Secretary determines to be appropriate under the circumstances, issue an order requiring the owner or operator to correct specified deficiencies.

(d) EMERGENCY POWERS.—

(1) DEFINITION OF EMERGENCY THREAT.—The term ''emergency threat'' means a threat of a terrorist act that could result in a terrorist release at a chemical source—

(A) that is beyond the scope of the site security plan as implemented at the chemical source;

(B) the likelihood of the immediate occurrence of which is high;

(C) the consequences of which would be severe; and

(D) based on the factors described in subparagraphs (A) through (C), would not be appropriately and reasonably addressed, or addressed in a timely manner, by the Secretary under subsections (a) through (c).

(2) INITIATION OF ACTION.—

(A) IN GENERAL.—If the Secretary (in consultation with State and local law enforcement officials) determines that an emergency threat exists, the Secretary may bring a civil action on behalf of the United States in United States district court to immediately require each covered source potentially subject to the emergency threat to take such actions as are necessary to respond to the emergency threat.

(B) NOTICE AND PARTICIPATION.—The Secretary shall provide to each covered source that is the subject of a civil action under subparagraph (A)—

(i) notice of any injunctive relief to compel compliance with this subsection that is being sought; and

(ii) an opportunity to participate in any proceedings relating to the civil action.

(3) EMERGENCY ORDERS.—

(A) IN GENERAL.—If the Secretary determines that it is not practicable to ensure prompt action to protect public safety from an emergency threat by commencing a civil action under paragraph (2), the Secretary may issue such orders as are necessary to ensure public safety.

(B) CONSULTATION.—Before issuing an order under subparagraph (A), the Secretary shall—

(i) consult with State and local law enforcement officials; and

(ii) attempt to confirm the accuracy of the information on which the action proposed to be taken is based.

(C) EFFECTIVENESS OF ORDERS.—

(i) IN GENERAL.—An order issued by the Secretary under this paragraph shall be effective for the 60-day period beginning on the date of issuance of the order unless the Secretary files a civil action under paragraph (2) before the expiration of that period.

(ii) EXTENSION OF EFFECTIVE PERIOD.—With respect to an order issued under this paragraph, the Secretary may file a civil action before the end of the 60-day period described in clause (i) to extend the effective period of the order for—

(I) 14 days; or

(II) such longer period as the court in which the civil action is filed may authorize.

(e) PROTECTION OF INFORMATION.—Any determination of disapproval or order made or issued under this section shall be exempt from disclosure—

(1) under section 552 of title 5, United States Code;

(2) under any State or local law providing for public access to information; and

(3) except as provided in section ____03(i)(4), in any Federal or State civil or administrative proceeding.

SEC. ____05. INTERAGENCY TECHNICAL SUPPORT AND COOPERATION.

The Secretary—

(1) may request other Federal agencies to provide technical and analytical support (other than field work) in implementing this title; and

(2) may provide reimbursement for such technical and analytical support received as the Secretary determines to be appropriate.

SEC. ____06. RECORDKEEPING; SITE INSPECTIONS; PRODUCTION OF INFORMATION.

(a) RECORDKEEPING.—The owner or operator of a chemical source that is required to prepare a vulnerability assessment or site security plan under section ____03(a) shall maintain a current copy of those documents.

(b) RIGHT OF ENTRY.—In carrying out this title, the Secretary (or a designee), on presentation of credentials, shall have a right of entry to, on, or through—

(1) any premises of an owner or operator of a chemical source described in subsection (a); and

(2) any premises on which any record required to be maintained under subsection (a) is located.

(c) REQUESTS FOR RECORDS.—In carrying out this title, the Secretary (or a designee) may require the submission of, or, on presentation of credentials, may at reasonable times seek access to and copy—

(1) any records, reports, or other information described in subsection (a); and

(2) any other documentation necessary for—

(A) review or analysis of a vulnerability assessment or site security plan; or

(B) implementation of a site security plan.

(d) COMPLIANCE.—If the Secretary determines that an owner or operator of a chemical source is not maintaining, producing, or permitting access to records as required by this section, the Secretary may issue an order requiring compliance with the relevant provisions of this section.

SEC. ____0 7. PENALTIES.

(a) JUDICIAL RELIEF.—Any owner or operator of a chemical source that violates or fails to comply with any order issued by the Secretary under this title or a site security plan submitted to the Secretary under this title (or, in the case of an exemption described in section ____03(d), a procedure, protocol, or standard endorsed or recognized by the Secretary under section ____03(c)) may, in a civil action brought in United States district court, be subject, for each day on which the violation occurs or the failure to comply continues, to—

(1) an order for injunctive relief; or

(2) a civil penalty of not more than $50,000.

(b) ADMINISTRATIVE PENALTIES.—

(1) PENALTY ORDERS.—The Secretary may issue an administrative penalty of not more than $250,000 for failure to comply with an order issued by the Secretary under this title.

(2) NOTICE AND HEARING.—Before issuing an order described in paragraph (1), the Secretary shall provide to the person against which the penalty is to be assessed—

(A) written notice of the proposed order; and

(B) the opportunity to request, not later than 30 days after the date on which the person receives the notice, a hearing on the proposed order.

(3) PROCEDURES.—The Secretary may promulgate regulations outlining the procedures for administrative hearings and appropriate review, including necessary deadlines.

(c) TREATMENT OF INFORMATION IN JUDICIAL PROCEEDINGS.—Information submitted or obtained by the Secretary, information derived from that information, and information submitted by the Secretary under this title (except under section ____011) shall be treated in any judicial or administrative action as if the information were classified material.

SEC. ____08. PROVISION OF TRAINING.

The Secretary may provide training to State and local officials and owners and operators in furtherance of the purposes of this title.

SEC. ____09. JUDICIAL REVIEW.

(a) REGULATIONS.—Not later than 60 days after the date of promulgation of a regulation under this title, any person may file a petition for judicial review relating to the regulation with—

(1) the United States Court of Appeals for the District of Columbia; or

(2) with the United States circuit court—

(A) having jurisdiction over the State in which the person resides; or

(B) for the circuit in which the principal place of business of the person is located.

(b) FINAL AGENCY ACTIONS OR ORDERS.—Not later than 60 days after the date on which a covered source receives notice of an action or order of the Secretary under this title with respect to the chemical source, the chemical source may file a petition for judicial review of the action or order with the United States district court for the district in which—

(1) the chemical source is located; or

(2) the owner or operator of the chemical source has a principal place of business.

(c) STANDARD OF REVIEW.—

(1) IN GENERAL.—On the filing of a petition under subsection (a) or (b), the court of jurisdiction shall review the regulation or other final action or order that is the subject of the petition in accordance with chapter 7 of title 5, United States Code.

(2) BASIS.—

(A) IN GENERAL.—Judicial review of a regulation, or of a final agency action or order described in paragraph (1) that is based on an administrative hearing held on the record, shall be based on the record of the proceedings, comments, and other information that the Secretary considered in promulgating the regulation, taking the action, or issuing the order being reviewed.

(B) OTHER ACTIONS AND ORDERS.—Judicial review of a final agency action or order described in paragraph (1) that is not described in subparagraph (A) shall be based on any submissions to the Secretary relating to the action or order, and any other information, that the Secretary considered in taking the action or issuing the order.

SEC. ____10. NO EFFECT ON REQUIREMENTS UNDER OTHER LAW.

(a) IN GENERAL.—Except as provided in section ____03(i), nothing in this title affects any duty or other requirement imposed under any other Federal or State law.

(b) OTHER FEDERAL LAW.—

(1) IN GENERAL.—Notwithstanding subsection (a), a chemical source that is required to prepare a facility vulnerability assessment and implement a facility security plan under any another Federal law may petition the Secretary to be subject to the other Federal law in lieu of this title.

(2) DETERMINATION OF SUBSTANTIAL EQUIVALENCE.—If the Secretary determines that a Federal law covered by a petition submitted by a chemical source under paragraph (1) is substantially equivalent to this title—

(A) the Secretary may grant the petition; and

(B) the chemical source shall be subject to the other Federal law in lieu of this title.

SEC. ___11. AGRICULTURAL BUSINESS SECURITY GRANT PROGRAM.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term ''eligible entity'' means a retail or production agricultural business (including a business that is engaged in the production or processing of seafood) that employs not more than such number of individuals at a chemical source included in the list described in section ___03(f)(1) as shall be determined by the Secretary, in consultation with the Administrator of the Small Business Administration and the Secretary of Agriculture.

(b) GRANTS.—The Secretary shall provide grants to an eligible entity that is a chemical source included in the list described in section ___03(f)(1) selected under this section to enable the eligible entity at the chemical source—

(1) to improve security measures; and

(2) to protect against or reduce the consequence of a terrorist attack.

(c) CRITERIA.—In establishing criteria for the selection of, or in otherwise selecting, eligible entities to receive a grant under this section, the Secretary shall—

(1) consider on an individual, location-by-location basis, each applicant for a grant; and

(2) require each eligible entity that receives a grant to use funds from the grant only for the purposes described in subsection (b) in accordance with guidance of the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SA 3928. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following new title:

TITLE IV—OTHER MATTERS

SEC. 401. VISA REQUIREMENTS.

Section 222 of the Immigration and Nationality Act (22 U.S.C. 1202) is amended by adding at the end the following new subsection:

''(h) Every alien applying for a nonimmigrant visa shall, prior to obtaining such visa, swear or affirm an oath stating that—

''(1) while in the United States, the alien shall, adhere to the laws and to the Constitution of the United States;

''(2) while in the United States, the alien will not attempt to develop information for the purpose of threatening the national security of the United States or to bring harm to any citizen of the United States;

''(3) the alien is not associated with a terrorist organization;

''(4) the alien has not and will not receive any funds or other support to visit the United States from a terrorist organization;

''(5) all documents submitted to support the alien's application are valid and contain truthful information;

''(6) while in the United States, the alien will inform the appropriate authorities if the alien is approached or contacted by a member of a terrorist organization; and

''(7) the alien understands that the alien's visa shall be revoked and the alien shall be removed from the United States if the alien is found—

''(A) to have acted in a manner that is inconsistent with this oath; or

''(B) provided fraudulent information in order to obtain a visa.''.

SA 3929. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; follows:

At the appropriate place, insert the following:

SEC. ___. RESTRICTION ON ISSUANCE OF MULTIPLE REPLACEMENT SOCIAL SECURITY CARDS.

(a) IN GENERAL.—Section 205(c)(2)(G) of the Social Security Act (42 U.S.C. 405(c)(2)(G)) is amended by adding at the end the following: ''The Commissioner shall restrict the issuance of multiple replacement social security cards to any individual to not more than 3 per year and not more than 10 for the life of the individual, except in any case in which the Commissioner determines there is minimal opportunity for fraud.''.

(b) RULEMAKING.—The Commissioner of Social Security shall issue regulations to carry out the amendment made by subsection (a) not later than 1 year after the date of enactment of this Act.

(c) EFFECTIVE DATE.—Systems controls developed by the Commissioner of Social Security pursuant to the amendment made by subsection (a) shall take effect upon the earlier of—

(1) the date of issuance of regulations under subsection (b); or

(2) the end of the 1-year period beginning on the date of enactment of this Act.

SA 3930. Mr. MCCONNELL (for himself and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. FIRST RESPONDER CITIZEN VOLUNTEER PROTECTION ACT.

(a) SHORT TITLE.—This section may be cited as the ''First Responder Citizen Volunteer Protection Act''.

(b) IMPORTANCE OF VOLUNTEERS.—Section 2(a) of the Volunteer Protection Act of 1997 (42 U.S.C. 14501(a)) is amended—

(1) in paragraph (6), by striking ''and'' after the semicolon;

(2) by redesignating paragraph (7) as paragraph (8); and

(3) by inserting after paragraph (6) the following:

''(7) since the attacks of September 11, 2001, the Federal Government has encouraged Americans to serve their country as citizen volunteers for programs such as the Volunteers in Police Service (VIPS), Medical Reserve Corps (MRC), Community Emergency Response Team (CERT), Neighborhood Watch, and Fire Corps, which help increase our homeland security preparedness and response, and which provide assistance to our fire, police, health, and medical personnel, and fellow citizens in the event of a natural or manmade disaster, terrorist attack, or act of war; and''.

(c) CITIZEN VOLUNTEER PROGRAM.—Section 6 of the Volunteer Protection Act of 1997 (42 U.S.C. 14505) is amended by adding at the end the following:

''(7) GOVERNMENTAL ENTITY.—The term 'government entity' means for purposes of this Act—

''(A) Federal or State Government, including any political subdivision or agency thereof; and

''(B) a federally-established or funded citizen volunteer program, including those coordinated by the USA Freedom Corps established by Executive order 13254 (February 1, 2002), and the program's components and State and local affiliates.

SA 3931. Mr. MCCONNELL (for himself, Mr. SANTORUM, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___. VOLUNTEER FIREFIGHTER ASSISTANCE

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Good Samaritan Volunteer Firefighter Assistance Act of 2004''.

SEC. ___02. REMOVAL OF CIVIL LIABILITY BARRIERS THAT DISCOURAGE THE DONATION OF FIRE EQUIPMENT TO VOLUNTEER FIRE COMPANIES.

(a) LIABILITY PROTECTION.—A person who donates fire control or fire rescue equipment to a volunteer fire company shall not be liable for civil damages under any State or Federal law for personal injuries, property damage or loss, or death proximately caused by the equipment after the donation.

(b) EXCEPTIONS.—Subsection (a) shall not apply to a person if—

(1) the person's act or omission proximately causing the injury, damage, loss, or death constitutes gross negligence or intentional misconduct; or

(2) the person is the manufacturer of the fire control or fire rescue equipment.

(c) PREEMPTION.—This title preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that this title shall not preempt any State law that provides additional protection from liability for a person who donates fire control or fire rescue equipment to a volunteer fire company.

(d) DEFINITIONS.—In this section:

(1) PERSON.—The term ''person'' includes any governmental or other entity.

(2) FIRE CONTROL OR RESCUE EQUIPMENT.—The term ''fire control or fire rescue equipment'' includes any fire vehicle, fire fighting tool, communications equipment, protective gear, fire hose, or breathing apparatus.

(3) STATE.—The term ''State'' includes the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, any other territory or possession of the United States, and any political subdivision of any such State, territory, or possession.

(4) VOLUNTEER FIRE COMPANY.—The term ''volunteer fire company'' means an association of individuals who provide fire protection and other emergency services, where at least 30 percent of the individuals receive little or no compensation compared with an entry level full-time paid individual in that association or in the nearest such association with an entry level full-time paid individual.

(e) EFFECTIVE DATE.—This title applies only to liability for injury, damage, loss, or death caused by equipment that, for purposes of subsection (a), is donated on or after

the date that is 30 days after the date of enactment of this Act.

SEC. 3. STATE-BY-STATE REVIEW OF DONATION OF FIREFIGHTER EQUIPMENT.

(a) REVIEW.—The Attorney General of the United States shall conduct a State-by-State review of the donation of firefighter equipment to volunteer firefighter companies during the 5-year period ending on the date of enactment of this Act.

(b) REPORT.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Attorney General of the United States shall publish and submit to Congress a report on the results of the review conducted under subsection (a).

(2) CONTENTS.—The report published and submitted under paragraph (1) shall include, for each State—

(A) the most effective way to fund firefighter companies;

(B) whether first responder funding is sufficient to respond to the Nation's needs; and

(C) the best method to ensure that the equipment donated to volunteer firefighter companies is in usable condition.

SA 3932. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 153, between lines 2 and 3, insert the following:

SEC. 207. ALTERNATIVE ANALYSES OF INTELLIGENCE BY THE INTELLIGENCE COMMUNITY.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the National Intelligence Director should consider the advisability of establishing for each element of the intelligence community an element, office, or component whose purpose is the alternative analysis (commonly referred to as a ''red-team analysis'') of the information and conclusions in the intelligence products of such element of the intelligence community.

(b) REPORT.—(1) Not later than one year after the date of the enactment of this Act, the National Intelligence Director shall submit to Congress a report on the actions taken to establish for each element of the intelligence community an element, office, or component described in subsection (a).

(2) The report shall be submitted in an unclassified form, but may include a classified annex.

SA 3933. Ms. CANTWELL (for herself, Mr. SESSIONS, Mr. SCHUMER, and Mr. KYL) submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. BIOMETRIC STANDARD FOR VISA APPLICATIONS.

(a) SHORT TITLE.—This section may be cited as the ''Biometric Visa Standard Distant Borders Act''.

(b) TECHNOLOGY STANDARD FOR VISA WAIVER PARTICIPANTS.—Section 303(c) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732(c)) is amended to read as follows:

''(c) TECHNOLOGY STANDARD FOR VISA WAIVER PARTICIPANTS.—

''(1) IN GENERAL.—Not later than October 26, 2005, the government of each country that is designated to participate in the visa waiver program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) shall certify, as a condition for designation or continuation of that designation, that the country has a program to issue to individuals seeking to enter that country pursuant to a visa issued by that country, a machine readable visa document that is tamper-resistant and incorporates biometric identification information that is verifiable at its port of entry, and compatible with the biometric identifiers collected by the United States Visitor and Immigrant Status Indicator Technology Program (US-VISIT).

''(2) SAVINGS CLAUSE.—This subsection shall not be construed to rescind the requirement of section 217(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1187(a)(3)).''.

SA 3934. Mr. GREGG submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 25, strike the period and insert ''; and''.

On page 7, after line 25, add the following:

(C) does not refer to the Office of Intelligence Policy and Review of the Department of Justice or to any program, project, or activity of the Federal Bureau of Investigation that is not under the direct control of the Executive Assistant Director for Intelligence of the Federal Bureau of Investigation.

On page 41, line 12, strike ''CONCURRENCE OF'' and insert ''CONSULTATION WITH''.

On page 41, beginning on line 15, strike ''obtain the concurrence of'' and insert ''consult with''.

On page 41, beginning on line 19, strike ''If the Director'' and all that follows through line 25.

On page 42, strike line 10 and all that follows through line 25.

On page 85, beginning on line 10, strike ''obtain the concurrence of'' and insert ''consult with''.

On page 85, beginning on line 14, strike ''If the Director'' and all that follows through line 20.

On page 120, beginning on line 17, strike '', subject to the direction and control of the President,''.

On page 121, line 13, strike ''and analysts'' and insert '', analysts, and related personnel''.

On page 121, line 17, strike ''and analysts'' and insert '', analysts, and related personnel''.

On page 121, line 19, strike ''and analysts'' and insert '', analysts, and related personnel''.

On page 123, beginning on line 8, strike '', in consultation with the Director of the Office of Management and Budget, modify the'' and insert ''establish a''.

On page 123, line 11, strike ''in order to organize the budget according to'' and insert ''to reflect''.

On page 123, strike line 4 through line 8.

SA 3935. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

''(a) On page 209, after line 14, insert the following:

''(b) Not later than 180 days after the date of the enactment of this Act, the National Intelligence Director, in consultation with heads of departments containing elements of the intelligence community, shall submit to Congress an Implementation Plan for Intelligence Community Reform. The Implementation Plan shall include the following:

''(1) A detailed plan for how the authorities set forth in Title I Section 113 of this Act for the National Intelligence Program Budget and resources will be implemented, including but not limited to (a) the process for development of budgets, allocation of resources, transfer of personnel and reprogramming; (b) specific lines of authority and reporting that will be used in these processes; and (c) identification of potential obstacles or legal issues with implementation;

''(2) A detailed description of how the National Intelligence Director and the National Intelligence Authority will interact with the Secretary of Defense and Department of Defense on intelligence issues. In particular this shall describe what elements of the DoD will be subject to the authority that this Act provides the National Intelligence Director, how that authority will be exercised, and how disagreements about the exercise of that authority will be resolved. In addition, this shall describe how the National Intelligence Director will assure that combat forces will continue to receive optimal intelligence support under the new structure established by this Act.

''(3) A detailed description of how the National Intelligence Director and the National Intelligence Authority will interact with the Attorney General, the Director of the FBI, and the FBI on intelligence issues. In particular this shall describe what elements of the FBI will be subject to the authority that this Act provides the National Intelligence Director, how that authority will be exercised, and how disagreements about the exercise of that authority will be resolved. In addition, this shall describe how the authority that this Act provides the National Intelligence Director will be exercised consistent with the responsibility of the Attorney General to oversee activities of the FBI.

''(4) A detailed description of precisely how the authorities and responsibilities of the new National Counterterrorism Center established by this Act are being implemented, including mechanisms for merging domestic and foreign information and authorities for tasking or direction of intelligence collection and how those mechanisms protect the civil liberties of U.S. Persons.

''(5) A detailed description of steps the National Intelligence Director will take to address the quality and independence of analysis within the new structure established by this Act.

''(6) A detailed description of the roles of the National Intelligence Authority staff officers created in Title I Sections 124–131 of this Act and how those officers interact with each other and other government departments and agencies.

''The National Intelligence Director shall submit the Implementation Plan to the Congress.''.

''(b) Insert ''(a)'' before ''Not later'' in line 7 of page 209.

SA 3936. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 125, between lines 13 and 14, insert the following:

(c) ESTABLISHMENT OF SENIOR INTELLIGENCE SERVICE.—

(1) IN GENERAL.—The Director of the Federal Bureau of Investigation, in consultation with the Director of the Office of Personnel Management, may—

(A) establish a Senior Intelligence Service within the Federal Bureau of Investigation in order to meet the intelligence obligations of the Federal Bureau of Investigation; and

(B) appoint individuals to positions in the Senior Intelligence Service.

(2) REGULATIONS.—The Director of the Federal Bureau of Investigation shall prescribe regulations for purposes of paragraph (1), which regulations shall be consistent with personnel authorities and practices established pursuant to section 3151 of title 5, United States Code.

(d) ESTABLISHMENT OF INTELLIGENCE SENIOR LEVEL POSITIONS.—The Director of the Federal Bureau of Investigation, in consultation with the Director of the Office of Personnel Management, may—

(1) establish Intelligence Senior Level positions within the Federal Bureau of Investigation in order to meet the intelligence obligations of the Federal Bureau of Investigation, which positions may be classified to rates of pay payable for grades above grade GS–15 of the General Schedule; and

(2) appoint individuals to such Intelligence Senior Level positions.

On page 125, line 14, strike ''(c)'' and insert ''(e)''.

On page 126, line 5, strike ''(d)'' and insert ''(f)''.

SA 3937. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following new title:

TITLE IV—IMMIGRATION

SEC. 401. JUDICIAL REVIEW OF ORDERS OF REMOVAL.

(a) IN GENERAL.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraphs (A), (B), and (C), by inserting ''(statutory and nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of title 28, United States Code'' after ''Notwithstanding any other provision of law''; and

(ii) by adding at the end the following:

''(D) JUDICIAL REVIEW OF CERTAIN LEGAL CLAIMS.—Nothing in this paragraph shall be construed as precluding consideration by the circuit courts of appeals of constitutional claims or pure questions of law raised upon petitions for review filed in accordance with this section. Notwithstanding any other provision of law (statutory and nonstatutory), including section 2241 of title 28, United States Code, or, except as provided in subsection (e), any other habeas corpus provision, and sections 1361 and 1651 of title 28, United States Code, such petitions for review shall be the sole and exclusive means of raising any and all claims with respect to orders of removal entered or issued under any provision of this Act.''; and

(B) by adding at the end the following:

''(4) CLAIMS UNDER THE UNITED NATIONS CONVENTION.—Notwithstanding any other provision of law (statutory and nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of title 28, United States Code, a petition for review by the circuit courts of appeals filed in accordance with this section is the sole and exclusive means of judicial review of claims arising under the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment.

''(5) EXCLUSIVE MEANS OF REVIEW.—The judicial review specified in this subsection shall be the sole and exclusive means for review by any court of an order of removal entered or issued under any provision of this Act. For purposes of this title, in every provision that limits or eliminates judicial review or jurisdiction to review, the terms 'judicial review' and 'jurisdiction to review' include habeas corpus review pursuant to section 2241 of title 28, United States Code, or any other habeas corpus provision, sections 1361 and 1651 of title 28, United States Code, and review pursuant to any other provision of law.'';

(2) in subsection (b)—

(A) in paragraph (3)(B), by inserting ''pursuant to subsection (f)'' after ''unless''; and

(B) in paragraph (9), by adding at the end the following: ''Except as otherwise provided in this subsection, no court shall have jurisdiction, by habeas corpus under section 2241 of title 28, United States Code, or any other habeas corpus provision, by section 1361 or 1651 of title 28, United States Code, or by any other provision of law (statutory or nonstatutory), to hear any cause or claim subject to these consolidation provisions.'';

(3) in subsection (f)(2), by inserting ''or stay, by temporary or permanent order, including stays pending judicial review,'' after ''no court shall enjoin''; and

(4) in subsection (g), by inserting ''(statutory and nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of title 28, United States Code'' after ''notwithstanding any other provision of law''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply only to an alien who has been convicted of an offense that is related to terrorism and that is described in section 2332b(g)(5)(B) of title 18, United States Code.

(c) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to cases in which the final administrative removal order was issued before, on, or after the date of enactment of this Act.

SEC. 402. ADDITIONAL REMOVAL AUTHORITIES.

(a) IN GENERAL.—Section 241(b) of the Immigration and Nationality Act (8 U.S.C. 1231(b)) is amended—

(1) in paragraph (1)—

(A) in each of subparagraphs (A) and (B), by striking the period at the end and inserting ''unless, in the opinion of the Secretary of Homeland Security, removing the alien to such country would be prejudicial to the United States.''; and

(B) by amending subparagraph (C) to read as follows:

''(C) ALTERNATIVE COUNTRIES.—If the alien is not removed to a country designated in subparagraph (A) or (B), the Secretary of Homeland Security shall remove the alien to—

''(i) the country of which the alien is a citizen, subject, or national, where the alien was born, or where the alien has a residence, unless the country physically prevents the alien from entering the country upon the alien's removal there; or

''(ii) any country whose government will accept the alien into that country.''; and

(2) in paragraph (2)—

(A) by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security'';

(B) by amending subparagraph (D) to read as follows:

''(D) ALTERNATIVE COUNTRIES.—If the alien is not removed to a country designated under subparagraph (A)(i), the Secretary of Homeland Security shall remove the alien to a country of which the alien is a subject, national, or citizen, where the alien was born, or where the alien has a residence, unless—

''(i) such country physically prevents the alien from entering the country upon the alien's removal there; or

''(ii) in the opinion of the Secretary of Homeland Security, removing the alien to the country would be prejudicial to the United States.''; and

(C) by amending subparagraph (E)(vii) to read as follows:

''(vii) Any country whose government will accept the alien into that country.''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply only to a case involving an alien who has been convicted of an offense that is related to terrorism and that is described in section 2332b(g)(5)(B) of title 18, United States Code.

(c) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, the amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to any deportation, exclusion, or removal on or after such date pursuant to any deportation, exclusion, or removal order, regardless of whether such order is administratively final before, on, or after such date.

SEC. 403. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

SA 3938. Mr. HATCH (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. FEDERAL COLLATERAL REVIEW OF CONVICTIONS FOR KILLING PUBLIC SAFETY OFFICER.

(a) SHORT TITLE.—This section may be cited as the ''Public Safety Officers' Defense Act''.

(b) SUBSTANTIVE LIMITS.—Section 2254 of title 28, United States Code, is amended by adding at the end the following:

''(j) CRIMES AGAINST PUBLIC SAFETY OFFICER.—

''(1) DEFINITION OF PUBLIC SAFETY OFFICER.—In this subsection, the term 'public safety officer' has the meaning given such term in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b).

''(2) IN GENERAL.—A court, justice, or judge shall not have jurisdiction to consider any claim relating to the judgment or sentence in an application described under paragraph (3), unless the applicant shows that the claim qualifies for consideration on the grounds described in subsection (e)(2). Any such application that is presented to a court, justice, or judge other than a district court shall be transferred to the appropriate district court for consideration or dismissal in conformity with this subsection, except that a court of appeals panel must authorize any

second or successive application in conformity with section 2244 prior to any consideration by the district court.

''(3) APPLICATION OF SUBSECTION.—This subsection shall apply to an application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court for a crime that involved the killing of a public safety officer while the public safety officer was engaged in the performance of official duties, or on account of the public safety officer's performance of official duties.''.

(c) TIME LIMITS.—Section 2254(j) of title 28, United States Code, as added by subsection (b), is amended by adding at the end the following:

''(4) TIME LIMITS IN DISTRICT COURT.—For any application described under paragraph (3), in the district court the following shall apply:

''(A) Any motion by either party for an evidentiary hearing shall be filed and served not later than 90 days after the State files its answer or, if no timely answer is filed, the date on which such answer is due.

''(B) Any motion for an evidentiary hearing shall be granted or denied not later than 30 days after the date on which the party opposing such motion files a pleading in opposition to such motion or, if no timely pleading in opposition is filed, the date on which such pleading in opposition is due.

''(C) Any evidentiary hearing shall be—

''(i) convened not less than 60 days after the order granting such hearing; and

''(ii) completed not more than 150 days after the order granting such hearing.

''(D) A district court shall enter a final order, granting or denying the application for a writ of habeas corpus, not later than 15 months after the date on which the State files its answer or, if no timely answer is filed, the date on which such answer is due, or not later than 60 days after the case is submitted for decision, whichever is earlier.

''(E) If the district court fails to comply with the requirements of this paragraph, the State may petition the court of appeals for a writ of mandamus to enforce the requirements. The court of appeals shall grant or deny the petition for a writ of mandamus not later than 30 days after such petition is filed with the court.

''(5) TIME LIMITS IN COURT OF APPEALS.—For any application described under paragraph (3), in the court of appeals the following shall apply:

''(A) A timely filed notice of appeal from an order issuing a writ of habeas corpus shall operate as a stay of that order pending final disposition of the appeal.

''(B) The court of appeals shall decide the appeal from an order granting or denying a writ of habeas corpus—

''(i) not later than 120 days after the date on which the brief of the appellee is filed or, if no timely brief is filed, the date on which such brief is due; or

''(ii) if a cross-appeal is filed, not later than 120 days after the date on which the appellant files a brief in response to the issues presented by the cross-appeal or, if no timely brief is filed, the date on which such brief is due.

''(C)(i) Following a decision by a panel of the court of appeals under subparagraph (B), a petition for panel rehearing is not allowed, but rehearing by the court of appeals en banc may be requested. The court of appeals shall decide whether to grant a petition for rehearing en banc not later than 30 days after the date on which the petition is filed, unless a response is required, in which case the court shall decide whether to grant the petition not later than 30 days after the date on which the response is filed or, if no timely response is filed, the date on which the response is due.

''(ii) If rehearing en banc is granted, the court of appeals shall make a final determination of the appeal not later than 120 days after the date on which the order granting rehearing en banc is entered.

''(D) If the court of appeals fails to comply with the requirements of this paragraph, the State may petition the Supreme Court or a justice thereof for a writ of mandamus to enforce the requirements.

''(6) APPLICATION OF TIME LIMITS.—

''(A) IN GENERAL.—The time limitations under paragraphs (4) and (5) shall apply to an initial application described under paragraph (3), any second or successive application described under paragraph (3), and any redetermination of an application described under paragraph (3) or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings.

''(B) REMAND IN DISTRICT COURT.—In proceedings following remand in the district court, time limits running from the time the State files its answer under paragraph (4) shall run from the date the remand is ordered if further briefing is not required in the district court. If there is further briefing following remand in the district court, such time limits shall run from the date on which a responsive brief is filed or, if no timely responsive brief is filed, the date on which such brief is due.

''(C) REMAND IN COURT OF APPEALS.—In proceedings following remand in the court of appeals, the time limit specified in paragraph (5)(B) shall run from the date the remand is ordered if further briefing is not required in the court of appeals. If there is further briefing in the court of appeals, the time limit specified in paragraph (5)(B) shall run from the date on which a responsive brief is filed or, if no timely responsive brief is filed, from the date on which such brief is due.

''(7) FAILURE TO COMPLY.—The failure of a court to meet or comply with a time limitation under this subsection shall not be a ground for granting relief from a judgment of conviction or sentence, nor shall the time limitations under this subsection be construed to entitle a capital applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.''.

(d) APPLICATION TO PENDING CASES.—

(1) IN GENERAL.—The amendments made by this section shall apply to cases pending on or after the date of enactment of this Act.

(2) TIME LIMITS.—In a case pending on the date of enactment of this Act, if the amendments made by this section provide that a time limit runs from an event or time that has occurred prior to such date of enactment, the time limit shall run instead from such date of enactment.

SA 3939. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, add:

It is the Sense of the Senate that the United States should support and uphold the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.

SA 3940. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PENALTIES FOR STOWAWAYS.

Section 2199 of title 18, United States Code, is amended by striking ''Shall be fined under this title or imprisoned not more than one year or both.'' and inserting the following:

''Shall be fined under this title or imprisoned not more than 5 years or both;

''If serious bodily injury occurs (as defined in section 1365 of this title, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242 of this title) to any person other than a participant as a result of a violation of this section, be fined under this title or imprisoned not more than 20 years, or both; and

''If death to any person other than a participant occurs as a result of a violation of this section, be fined under this title or imprisoned for any number of years up to life, or both.''.

SA 3941. Mr. GRAHAM of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

28 U.S.C. §1605(A). A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case—

2. * * *

(7) not otherwise covered by paragraph (2), in which money damages are sought against a foreign state for personal injury or death, or damage to or loss of property, that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that the court shall decline to hear a claim under this paragraph—

(A) if the foreign state was not designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) at the time the act occurred, unless later so designated as a result of such act or the act is related to Case Number 1:00CV03110(EGS) in the United States District Court for the District of Columbia or to the September 11, 2001 terrorist attacks against the World Trade Center, the Pentagon and other targets in the United States; * * *

18 U.S.C. §2332f(e). As used in this section, the term—

(2) ''national of the United States'' (i) has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)) and (ii) means an organization which is incorporated or chartered or has its principal place of business in the United States;

SA 3942. Mr. LIEBERMAN (for Mr. MCCAIN (for himself, and Mr. LIEBERMAN, and Mr. BAYH,) proposed an amendment to the bill S. 2845, to reform the intelligence community and

the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE ___—THE ROLE OF DIPLOMACY, FOREIGN AID, AND THE MILITARY IN THE WAR ON TERRORISM

SEC. ___01. FINDINGS.

Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Long-term success in the war on terrorism demands the use of all elements of national power, including diplomacy, military action, intelligence, covert action, law enforcement, economic policy, foreign aid, public diplomacy, and homeland defense.

(2) To win the war on terrorism, the United States must assign to economic and diplomatic capabilities the same strategic priority that is assigned to military capabilities.

(3) The legislative and executive branches of the Government of the United States must commit to robust, long-term investments in all of the tools necessary for the foreign policy of the United States to successfully accomplish the goals of the United States.

(4) The investments referred to in paragraph (3) will require increased funding to United States foreign affairs programs in general, and to priority areas as described in this title in particular.

SEC. ___02. TERRORIST SANCTUARIES.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Complex terrorist operations require locations that provide such operations sanctuary from interference by government or law enforcement personnel.

(2) A terrorist sanctuary existed in Afghanistan before September 11, 2001.

(3) The terrorist sanctuary in Afghanistan provided direct and indirect value to members of al Qaeda who participated in the terrorist attacks on the United States on September 11, 2001, and in other terrorist operations.

(4) Terrorist organizations have fled to some of the least governed and most lawless places in the world to find sanctuary.

(5) During the 21st century, terrorists are focusing on remote regions and failing states as locations to seek sanctuary.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States Government should identify and prioritize locations that are or that could be used as terrorist sanctuaries;

(2) the United States Government should have a realistic strategy that includes the use of all elements of national power to keep possible terrorists from using a location as a sanctuary; and

(3) the United States Government should reach out, listen to, and work with countries in bilateral and multilateral fora to prevent locations from becoming sanctuaries and to prevent terrorists from using locations as sanctuaries.

SEC. ___03. ROLE OF PAKISTAN IN COUNTERING TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The Government of Pakistan has a critical role to perform in the struggle against Islamist terrorism.

(2) The endemic poverty, widespread corruption, and frequent ineffectiveness of government in Pakistan create opportunities for Islamist recruitment.

(3) The poor quality of education in Pakistan is particularly worrying, as millions of families send their children to madrassahs, some of which have been used as incubators for violent extremism.

(4) The vast unpoliced regions in Pakistan make the country attractive to extremists seeking refuge and recruits and also provide a base for operations against coalition forces in Afghanistan.

(5) A stable Pakistan, with a moderate, responsible government that serves as a voice of tolerance in the Muslim world, is critical to stability in the region.

(6) There is a widespread belief among the people of Pakistan that the United States has long treated them as allies of convenience.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should make a long-term commitment to fostering a stable and secure future in Pakistan, as long as its leaders remain committed to combatting extremists and extremism, ending the proliferation of weapons of mass destruction, securing its borders, and gaining internal control of all its territory while pursuing policies that strengthen civil society, promote moderation and advance socio-economic progress;

(2) Pakistan should make sincere efforts to transition to democracy, enhanced rule of law, and robust civil institutions, and United States policy toward Pakistan should promote such a transition;

(3) the United States assistance to Pakistan should be maintained at the overall levels requested by the President for fiscal year 2005;

(4) the United States should support the Government of Pakistan with a comprehensive effort that extends from military aid to support for better education;

(5) the United States Government should devote particular attention and resources to assisting in the improvement of the quality of education in Pakistan; and

(6) the Government of Pakistan should devote additional resources of such Government to expanding and improving modern public education in Pakistan.

SEC. ___04. AID TO AFGHANISTAN.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The United States and its allies in the international community have made progress in promoting economic and political reform within Afghanistan, including the establishment of a central government with a democratic constitution, a new currency, and a new army, the increase of personal freedom, and the elevation of the standard of living of many Afghans.

(2) A number of significant obstacles must be overcome if Afghanistan is to become a secure and prosperous democracy, and such a transition depends in particular upon—

(A) improving security throughout the country;

(B) disarming and demobilizing militias;

(C) curtailing the rule of the warlords;

(D) promoting equitable economic development;

(E) protecting the human rights of the people of Afghanistan;

(F) holding elections for public office; and

(G) ending the cultivation and trafficking of narcotics.

(3) The United States and the international community must make a long-term commitment to addressing the deteriorating security situation in Afghanistan and the burgeoning narcotics trade, endemic poverty, and other serious problems in Afghanistan in order to prevent that country from relapsing into a sanctuary for international terrorism.

(b) SENSE OF CONGRESS.—

(1) ACTIONS FOR AFGHANISTAN.—It is the sense of Congress that the Government of the United States should take, with respect to Afghanistan, the following actions:

(A) Working with other nations to obtain long-term security, political, and financial commitments and fulfillment of pledges to the Government of Afghanistan to accomplish the objectives of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.), especially to ensure a secure, democratic, and prosperous Afghanistan that respects the rights of its citizens and is free of international terrorist organizations.

(B) Using the voice and vote of the United States in relevant international organizations, including the North Atlantic Treaty Organization and the United Nations Security Council, to strengthen international commitments to assist the Government of Afghanistan in enhancing security, building national police and military forces, increasing counter-narcotics efforts, and expanding infrastructure and public services throughout the country.

(C) Taking appropriate steps to increase the assistance provided under programs of the Department of State and the United States Agency for International Development throughout Afghanistan and to increase the number of personnel of those agencies in Afghanistan as necessary to support the increased assistance.

(2) REVISION OF AFGHANISTAN FREEDOM SUPPORT ACT OF 2002.—It is the sense of Congress that Congress should, in consultation with the President, update and revise, as appropriate, the Afghanistan Freedom Support Act of 2002.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President for each of the fiscal years 2005 through 2009 such sums as may be necessary to provide assistance for Afghanistan, unless otherwise authorized by Congress, for the following purposes:

(A) For development assistance under sections 103, 105, and 106 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151a, 2151c, and 2151d).

(B) For children's health programs under the Child Survival and Health Program Fund under section 104 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b).

(C) For economic assistance under the Economic Support Fund under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.).

(D) For international narcotics and law enforcement under section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291).

(E) For nonproliferation, anti-terrorism, demining, and related programs.

(F) For international military education and training under section 541 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347).

(G) For Foreign Military Financing Program grants under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

(H) For peacekeeping operations under section 551 of the Foreign Assistance Act of 1961 (22 U.S.C. 2348).

(2) CONDITIONS FOR ASSISTANCE.—Assistance provided by the President under this subsection—

(A) shall be consistent with the Afghanistan Freedom Support Act of 2002; and

(B) shall be provided with reference to the ''Securing Afghanistan's Future'' document published by the Government of Afghanistan.

SEC. ___05. THE UNITED STATES-SAUDI ARABIA RELATIONSHIP.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Despite a long history of friendly relations with the United States, Saudi Arabia has been a problematic ally in combating Islamist extremism.

(2) Cooperation between the Governments of the United States and Saudi Arabia has traditionally been carried out in private.

(3) Counterterrorism cooperation between the Governments of the United States and Saudi Arabia has improved significantly since the terrorist bombing attacks in Riyadh, Saudi Arabia, on May 12, 2003, especially cooperation to combat terror groups operating inside Saudi Arabia.

(4) The Government of Saudi Arabia is now pursuing al Qaeda within Saudi Arabia and has begun to take some modest steps toward internal reform.

(5) Nonetheless, the Government of Saudi Arabia has been at times unresponsive to United States requests for assistance in the global war on Islamist terrorism.

(6) The Government of Saudi Arabia has not done all it can to prevent nationals of Saudi Arabia from funding and supporting extremist organizations in Saudi Arabia and other countries.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the problems in the relationship between the United States and Saudi Arabia must be confronted openly, and the opportunities for cooperation between the countries must be pursued openly by those governments;

(2) both governments must build a relationship that they can publicly defend and that is based on other national interests in addition to their national interests in oil;

(3) this relationship should include a shared commitment to political and economic reform in Saudi Arabia;

(4) this relationship should also include a shared interest in greater tolerance and respect for other cultures in Saudi Arabia and a commitment to fight the violent extremists who foment hatred in the Middle East; and

(5) the Government of Saudi Arabia must do all it can to prevent nationals of Saudi Arabia from funding and supporting extremist organizations in Saudi Arabia and other countries.

SEC. ___06. EFFORTS TO COMBAT ISLAMIST TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) While support for the United States has plummeted in the Islamic world, many negative views are uninformed, at best, and, at worst, are informed by coarse stereotypes and caricatures.

(2) Local newspapers in Islamic countries and influential broadcasters who reach Islamic audiences through satellite television often reinforce the idea that the people and Government of the United States are anti-Muslim.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Government of the United States should offer an example of moral leadership in the world that includes a commitment to treat all people humanely, abide by the rule of law, and be generous to the people and governments of other countries;

(2) the United States should cooperate with governments of Islamic countries to foster agreement on respect for human dignity and opportunity, and to offer a vision of a better future that includes stressing life over death, individual educational and economic opportunity, widespread political participation, contempt for indiscriminate violence, respect for the rule of law, openness in discussing differences, and tolerance for opposing points of view;

(3) the United States should encourage reform, freedom, democracy, and opportunity for Arabs and Muslims and promote moderation in the Islamic world; and

(4) the United States should work to defeat extremist ideology in the Islamic world by providing assistance to moderate Arabs and Muslims to combat extremist ideas.

SEC. ___07. UNITED STATES POLICY TOWARD DICTATORSHIPS.

(a) FINDING.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that short-term gains enjoyed by the United States through cooperation with repressive dictatorships have often been outweighed by long-term setbacks for the stature and interests of the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) United States foreign policy should promote the value of life and the importance of individual educational and economic opportunity, encourage widespread political participation, condemn indiscriminate violence, and promote respect for the rule of law, openness in discussing differences among people, and tolerance for opposing points of view; and

(2) the United States Government must prevail upon the governments of all predominantly Muslim countries, including those that are friends and allies of the United States, to condemn indiscriminate violence, promote the value of life, respect and promote the principles of individual education and economic opportunity, encourage widespread political participation, and promote the rule of law, openness in discussing differences among people, and tolerance for opposing points of view.

SEC. ___08. PROMOTION OF UNITED STATES VALUES THROUGH BROADCAST MEDIA.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Although the United States has demonstrated and promoted its values in defending Muslims against tyrants and criminals in Somalia, Bosnia, Kosovo, Afghanistan, and Iraq, this message is not always clearly presented and understood in the Islamic world.

(2) If the United States does not act to vigorously define its message in the Islamic world, the image of the United States will be defined by Islamic extremists who seek to demonize the United States.

(3) Recognizing that many Arab and Muslim audiences rely on satellite television and radio, the United States Government has launched promising initiatives in television and radio broadcasting to the Arab world, Iran, and Afghanistan.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States must do more to defend and promote its values and ideals to the broadest possible audience in the Islamic world;

(2) United States efforts to defend and promote these values and ideals are beginning to ensure that accurate expressions of these values reach large audiences in the Islamic world and should be robustly supported;

(3) the United States Government could and should do more to engage the Muslim world in the struggle of ideas; and

(4) the United States Government should more intensively employ existing broadcast media in the Islamic world as part of this engagement.

(c) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to the President for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out United States Government broadcasting activities under the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.), the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.), and the Foreign Affairs Reform and Restructuring Act of 1998 (22 U.S.C. 6501 et seq.), and to carry out other activities under this section consistent with the purposes of such Acts, unless otherwise authorized by Congress.

SEC. ___09. EXPANSION OF UNITED STATES SCHOLARSHIP AND EXCHANGE PROGRAMS IN THE ISLAMIC WORLD.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Exchange, scholarship, and library programs are effective ways for the United States Government to promote internationally the values and ideals of the United States.

(2) Exchange, scholarship, and library programs can expose young people from other countries to United States values and offer them knowledge and hope.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should expand its exchange, scholarship, and library programs, especially those that benefit people in the Arab and Muslim worlds.

(c) AUTHORITY TO EXPAND EDUCATIONAL AND CULTURAL EXCHANGES.—The President is authorized to substantially expand the exchange, scholarship, and library programs of the United States, especially such programs that benefit people in the Arab and Muslim worlds.

(d) AVAILABILITY OF FUNDS.—Of the amounts authorized to be appropriated for educational and cultural exchange programs in each of the fiscal years 2005 through 2009, there is authorized to be made available to the Secretary of State such sums as may be necessary to carry out programs under this section, unless otherwise authorized by Congress.

SEC. ___10. INTERNATIONAL YOUTH OPPORTUNITY FUND.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Education that teaches tolerance, the dignity and value of each individual, and respect for different beliefs is a key element in any global strategy to eliminate Islamist terrorism.

(2) Education in the Middle East about the world outside that region is weak.

(3) The United Nations has rightly equated literacy with freedom.

(4) The international community is moving toward setting a concrete goal of reducing by half the illiteracy rate in the Middle East by 2010, through the implementation of education programs targeting women and girls and programs for adult literacy, and by other means.

(5) To be effective, efforts to improve education in the Middle East must also include—

(A) support for the provision of basic education tools, such as textbooks that translate more of the world's knowledge into local languages and local libraries to house such materials; and

(B) more vocational education in trades and business skills.

(6) The Middle East can benefit from some of the same programs to bridge the digital

divide that already have been developed for other regions of the world.

(b) INTERNATIONAL YOUTH OPPORTUNITY FUND.—

(1) ESTABLISHMENT.—The President shall establish an International Youth Opportunity Fund to provide financial assistance for the improvement of public education in the Middle East.

(2) INTERNATIONAL PARTICIPATION.—The President shall seek the cooperation of the international community in establishing and generously supporting the Fund.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President for the establishment of the International Youth Opportunity Fund, in addition to any amounts otherwise available for such purpose, such sums as may be necessary for each of the fiscal years 2005 through 2009, unless otherwise authorized by Congress.

SEC. ___11. THE USE OF ECONOMIC POLICIES TO COMBAT TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) While terrorism is not caused by poverty, breeding grounds for terrorism are created by backward economic policies and repressive political regimes.

(2) Policies that support economic development and reform also have political implications, as economic and political liberties are often linked.

(3) The United States is working toward creating a Middle East Free Trade Area by 2013 and implementing a free trade agreement with Bahrain, and free trade agreements exist between the United States and Israel and the United States and Jordan.

(4) Existing and proposed free trade agreements between the United States and Islamic countries are drawing interest from other countries in the Middle East region, and Islamic countries can become full participants in the rules-based global trading system, as the United States considers lowering its barriers to trade with the poorest Arab countries.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) a comprehensive United States strategy to counter terrorism should include economic policies that encourage development, open societies, and opportunities for people to improve the lives of their families and to enhance prospects for their children's future;

(2) one element of such a strategy should encompass the lowering of trade barriers with the poorest countries that have a significant population of Arab or Muslim individuals;

(3) another element of such a strategy should encompass United States efforts to promote economic reform in countries that have a significant population of Arab or Muslim individuals, including efforts to integrate such countries into the global trading system; and

(4) given the importance of the rule of law in promoting economic development and attracting investment, the United States should devote an increased proportion of its assistance to countries in the Middle East to the promotion of the rule of law.

SEC. ___12. MIDDLE EAST PARTNERSHIP INITIATIVE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of the fiscal years 2005 through 2009 such sums as may be necessary for the Middle East Partnership Initiative, unless otherwise authorized by Congress.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, given the importance of the rule of law and economic reform to development in the Middle East, a significant portion of the funds authorized to be appropriated under subsection (a) should be made available to promote the rule of law in the Middle East.

SEC. ___13. COMPREHENSIVE COALITION STRATEGY FOR FIGHTING TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Almost every aspect of the counterterrorism strategy of the United States relies on international cooperation.

(2) Since September 11, 2001, the number and scope of United States Government contacts with foreign governments concerning counterterrorism have expanded significantly, but such contacts have often been ad hoc and not integrated as a comprehensive and unified approach.

(b) INTERNATIONAL CONTACT GROUP ON COUNTERTERRORISM.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that the President—

(A) should seek to engage the leaders of the governments of other countries in a process of advancing beyond separate and uncoordinated national counterterrorism strategies to develop with those other governments a comprehensive coalition strategy to fight Islamist terrorism; and

(B) to that end, should seek to establish an international counterterrorism policy contact group with the leaders of governments providing leadership in global counterterrorism efforts and governments of countries with sizable Muslim populations, to be used as a ready and flexible international means for discussing and coordinating the development of important counterterrorism policies by the participating governments.

(2) AUTHORITY.—The President is authorized to establish an international counterterrorism policy contact group with the leaders of governments referred to in paragraph (1) for purposes as follows:

(A) To develop in common with such other countries important policies and a strategy that address the various components of international prosecution of the war on terrorism, including policies and a strategy that address military issues, law enforcement, the collection, analysis, and dissemination of intelligence, issues relating to interdiction of travel by terrorists, counterterrorism-related customs issues, financial issues, and issues relating to terrorist sanctuaries.

(B) To address, to the extent (if any) that the President and leaders of other participating governments determine appropriate, such long-term issues as economic and political reforms that can contribute to strengthening stability and security in the Middle East.

SEC. ___14. TREATMENT OF FOREIGN PRISONERS.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Carrying out the global war on terrorism requires the development of policies with respect to the detention and treatment of captured international terrorists that are adhered to by all coalition forces.

(2) Article 3 of the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316) was specifically designed for cases in which the usual rules of war do not apply, and the minimum standards of treatment pursuant to such Article are generally accepted throughout the world as customary international law.

(b) POLICY.—The policy of the United States is as follows:

(1) It is the policy of the United States to treat all foreign persons captured, detained, interned or otherwise held in the custody of the United States (hereinafter ''prisoners'') humanely and in accordance with standards that the United States would consider legal if perpetrated by the enemy against an American prisoner.

(2) It is the policy of the United States that all officials of the United States are bound both in wartime and in peacetime by the legal prohibition against torture, cruel, inhuman or degrading treatment.

(3) If there is any doubt as to whether prisoners are entitled to the protections afforded by the Geneva Conventions, such prisoners shall enjoy the protections of the Geneva Conventions until such time as their status can be determined pursuant to the procedures authorized by Army Regulation 190–8, Section 1–6.

(4) It is the policy of the United States to expeditiously prosecute cases of terrorism or other criminal acts alleged to have been committed by prisoners in the custody of the United States Armed Forces at Guantanamo Bay, Cuba, in order to avoid the indefinite detention of prisoners, which is contrary to the legal principles and security interests of the United States.

(c) REPORTING.—The Department of Defense shall submit to the appropriate congressional committees:

(1) A quarterly report providing the number of prisoners who were denied Prisoner of War (POW) status under the Geneva Conventions and the basis for denying POW status to each such prisoner.

(2) A report setting forth—

(A) the proposed schedule for military commissions to be held at Guantanamo Bay, Cuba; and

(B) the number of individuals currently held at Guantanamo Bay, Cuba, the number of such individuals who are unlikely to face a military commission in the next six months, and each reason for not bringing such individuals before a military commission.

(3) All International Committee of the Red Cross reports, completed prior to the enactment of this Act, concerning the treatment of prisoners in United States custody at Guantanamo Bay, Cuba, Iraq, and Afghanistan. Such ICRC reports should be provided, in classified form, not later than 15 days after enactment of this Act.

(4) A report setting forth all prisoner interrogation techniques approved by officials of the United States.

(d) ANNUAL TRAINING REQUIREMENT.—The Department of Defense shall certify that all Federal employees and civilian contractors engaged in the handling or interrogating of prisoners have fulfilled an annual training requirement on the laws of war, the Geneva Conventions and the obligations of the United States under international humanitarian law.

(e) PROHIBITION ON TORTURE OR CRUEL, INHUMANE, OR DEGRADING TREATMENT OR PUNISHMENT.—

(1) IN GENERAL.—No prisoner shall be subject to torture or cruel, inhumane, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(2) RELATIONSHIP TO GENEVA CONVENTIONS.—Nothing in this section shall affect the status of any person under the Geneva Conventions or whether any person is entitled to the protections of the Geneva Conventions.

(f) RULES, REGULATIONS, AND GUIDELINES.—

(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act,

the Secretary and the Director shall prescribe the rules, regulations, or guidelines necessary to ensure compliance with the prohibition in subsection (e)(1) by all personnel of the United States Government and by any person providing services to the United States Government on a contract basis.

(2) REPORT TO CONGRESS.—The Secretary and the Director shall submit to Congress the rules, regulations, or guidelines prescribed under paragraph (1), and any modifications to such rules, regulations, or guidelines—

(A) not later than 30 days after the effective date of such rules, regulations, guidelines, or modifications; and

(B) in a manner and form that will protect the national security interests of the United States.

(g) REPORTS ON POSSIBLE VIOLATIONS.—

(1) REQUIREMENT.—The Secretary and the Director shall each submit, on a timely basis and not less than twice each year, a report to Congress on the circumstances surrounding any investigation of a possible violation of the prohibition in subsection (e)(1) by United States Government personnel or by a person providing services to the United States Government on a contract basis.

(2) FORM OF REPORT.—A report required under paragraph (1) shall be submitted in a manner and form that—

(A) will protect the national security interests of the United States; and

(B) will not prejudice any prosecution of an individual involved in, or responsible for, a violation of the prohibition in subsection (e)(1).

(h) REPORT ON A COALITION APPROACH TOWARD THE DETENTION AND HUMANE TREATMENT OF CAPTURED TERRORISTS.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report describing the efforts of the United States Government to develop an approach toward the detention and humane treatment of captured international terrorists that will be adhered to by all countries that are members of the coalition against terrorism.

(i) DEFINITIONS.—In this section:

(1) CRUEL, INHUMANE, OR DEGRADING TREATMENT OR PUNISHMENT.—The term ''cruel, inhumane, or degrading treatment or punishment'' means the cruel, unusual, and inhumane treatment or punishment prohibited by the fifth amendment, eighth amendment, or fourteenth amendment to the Constitution.

(2) DIRECTOR.—The term ''Director'' means the National Intelligence Director.

(3) GENEVA CONVENTIONS.—The term ''Geneva Conventions'' means—

(A) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3114);

(B) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(C) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(D) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Defense.

(5) TORTURE.—The term ''torture'' has the meaning given that term in section 2340 of title 18, United States Code.

SEC. ___15. PROLIFERATION OF WEAPONS OF MASS DESTRUCTION.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Al Qaeda and other terror groups have tried to acquire or make weapons of mass destruction since 1994 or earlier.

(2) The United States doubtless would be a prime target for use of any such weapon by al Qaeda.

(3) Although the United States Government has supported the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs, nonproliferation experts continue to express deep concern about the adequacy of such efforts to secure weapons of mass destruction and related materials that still exist in Russia other countries of the former Soviet Union, and around the world.

(4) The cost of increased investment in the prevention of proliferation of weapons of mass destruction and related materials is greatly outweighed by the potentially catastrophic cost to the United States of the use of such weapons by terrorists.

(5) The Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs are the United States primary method of preventing the proliferation of weapons of mass destruction and related materials from Russia and the states of the former Soviet Union, but require further expansion, improvement, and resources.

(6) Better coordination is needed within the executive branch of government for the budget development, oversight, and implementation of the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs, and critical elements of such programs are operated by the Departments of Defense, Energy, and State.

(7) The effective implementation of the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs in the countries of the former Soviet Union is hampered by Russian behavior and conditions on the provision of assistance under such programs that are unrelated to bilateral cooperation on weapons dismantlement.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) maximum effort to prevent the proliferation of weapons of mass destruction and related materials, wherever such proliferation may occur, is warranted;

(2) the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs should be expanded, improved, accelerated, and better funded to address the global dimensions of the proliferation threat; and

(3) the Proliferation Security Initiative is an important counterproliferation program that should be expanded to include additional partners.

(c) COOPERATIVE THREAT REDUCTION, GLOBAL THREAT REDUCTION INITIATIVE, AND OTHER NONPROLIFERATION ASSISTANCE PROGRAMS.—In this section, the term ''Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs'' includes—

(1) the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 50 U.S.C. 2362 note);

(2) the activities for which appropriations are authorized by section 3101(a)(2) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1742);

(3) the Department of State program of assistance to science centers;

(4) the Global Threat Reduction Initiative of the Department of Energy; and

(5) a program of any agency of the Federal Government having the purpose of assisting any foreign government in preventing nuclear weapons, plutonium, highly enriched uranium, or other materials capable of sustaining an explosive nuclear chain reaction, or nuclear weapons technology from becoming available to terrorist organizations.

(d) STRATEGY AND PLAN.—

(1) STRATEGY.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress—

(A) a comprehensive strategy for expanding and strengthening the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs; and

(B) an estimate of the funding necessary to execute such strategy.

(2) PLAN.—The strategy required by paragraph (1) shall include a plan for securing the nuclear weapons and related materials that are the most likely to be acquired or sought by, and susceptible to becoming available to, terrorist organizations, including—

(A) a prioritized list of the most dangerous and vulnerable sites;

(B) measurable milestones for improving United States nonproliferation assistance programs;

(C) a schedule for achieving such milestones; and

(D) initial estimates of the resources necessary to achieve such milestones under such schedule.

SEC. ___16. FINANCING OF TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) While efforts to designate and freeze the assets of terrorist financiers have been relatively unsuccessful, efforts to target the relatively small number of al Qaeda financial facilitators have been valuable and successful.

(2) The death or capture of several important financial facilitators has decreased the amount of money available to al Qaeda, and has made it more difficult for al Qaeda to raise and move money.

(3) The capture of al Qaeda financial facilitators has provided a windfall of intelligence that can be used to continue the cycle of disruption.

(4) The United States Government has rightly recognized that information about terrorist money helps in understanding terror networks, searching them out, and disrupting their operations.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) a critical weapon in the effort to stop terrorist financing should be the targeting of terrorist financial facilitators by intelligence and law enforcement agencies; and

(2) efforts to track terrorist financing must be paramount in United States counter-terrorism efforts.

(c) REPORT ON TERRORIST FINANCING.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report evaluating the effectiveness of United States efforts to curtail the international financing of terrorism.

(2) CONTENTS.—The report required by paragraph (1) shall evaluate and make recommendations on—

(A) the effectiveness of efforts and methods to the identification and tracking of terrorist financing;

(B) ways to improve multinational and international governmental cooperation in this effort;

(C) ways to improve the effectiveness of financial institutions in this effort;

(D) the adequacy of agency coordination, nationally and internationally, including

international treaties and compacts, in this effort and ways to improve that coordination; and

(E) recommendations for changes in law and additional resources required to improve this effort.

SEC. ___17. REPORT TO CONGRESS.

(a) REQUIREMENT FOR REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on the activities of the Government of the United States to carry out the provisions of this title.

(b) CONTENT.—The report required under this section shall include the following:

(1) TERRORIST SANCTUARIES.—A description of the strategy of the United States to address and, where possible, eliminate terrorist sanctuaries, including—

(A) a description of actual and potential terrorist sanctuaries, together with an assessment of the priorities of addressing and eliminating such sanctuaries;

(B) an outline of strategies for disrupting or eliminating the security provided to terrorists by such sanctuaries;

(C) a description of efforts by the United States Government to work with other countries in bilateral and multilateral fora to address or eliminate actual or potential terrorist sanctuaries and disrupt or eliminate the security provided to terrorists by such sanctuaries; and

(D) a description of long-term goals and actions designed to reduce the conditions that allow the formation of terrorist sanctuaries, such as supporting and strengthening host governments, reducing poverty, increasing economic development, strengthening civil society, securing borders, strengthening internal security forces, and disrupting logistics and communications networks of terrorist groups.

(2) SUPPORT FOR PAKISTAN.—A description of the efforts of the United States Government to support Pakistan and encourage moderation in that country, including—

(A) an examination of the desirability of establishing a Pakistan Education Fund to direct resources toward improving the quality of secondary schools in Pakistan, and an examination of the efforts of the Government of Pakistan to fund modern public education;

(B) recommendations on the funding necessary to provide various levels of educational support;

(C) an examination of the current composition and levels of United States military aid to Pakistan, together with any recommendations for changes in such levels and composition that the President considers appropriate; and

(D) an examination of other major types of United States financial support to Pakistan, together with any recommendations for changes in the levels and composition of such support that the President considers appropriate.

(3) SUPPORT FOR AFGHANISTAN.—

(A) SPECIFIC OBJECTIVES.—A description of the strategy of the United States to provide aid to Afghanistan during the 5-year period beginning on the date of enactment of this Act, including a description of the resources necessary during the next 5 years to achieve specific objectives in Afghanistan in the following areas:

(i) Fostering economic development.

(ii) Curtailing the cultivation of opium.

(iii) Achieving internal security and stability.

(iv) Eliminating terrorist sanctuaries.

(v) Increasing governmental capabilities.

(vi) Improving essential infrastructure and public services.

(vii) Improving public health services.

(viii) Establishing a broad-based educational system.

(ix) Promoting democracy and the rule of law.

(x) Building national police and military forces.

(B) PROGRESS.—A description of—

(i) the progress made toward achieving the objectives described in clauses (i) through (x) of subparagraph (A); and

(ii) any shortfalls in meeting such objectives and the resources needed to fully achieve such objectives.

(4) COLLABORATION WITH SAUDI ARABIA.—A description of the strategy of the United States for expanding collaboration with the Government of Saudi Arabia on subjects of mutual interest and of importance to the United States, including a description of—

(A) the utility of the President undertaking a periodic, formal, and visible high-level dialogue between senior United States Government officials of cabinet level or higher rank and their counterparts in the Government of Saudi Arabia to address challenges in the relationship between the two governments and to identify areas and mechanisms for cooperation;

(B) intelligence and security cooperation between the United States and Saudi Arabia in the fight against Islamist terrorism;

(C) ways to advance Saudi Arabia's contribution to the Middle East peace process;

(D) political and economic reform in Saudi Arabia and throughout the Middle East;

(E) ways to promote greater tolerance and respect for cultural and religious diversity in Saudi Arabia and throughout the Middle East; and

(F) ways to assist the Government of Saudi Arabia in preventing nationals of Saudi Arabia from funding and supporting extremist groups in Saudi Arabia and other countries.

(5) STRUGGLE OF IDEAS IN THE ISLAMIC WORLD.—A description of a cohesive, long-term strategy of the United States to help win the struggle of ideas in the Islamic world, including the following:

(A) A description of specific goals related to winning this struggle of ideas.

(B) A description of the range of tools available to the United States Government to accomplish such goals and the manner in which such tools will be employed.

(C) A list of benchmarks for measuring success and a plan for linking resources to the accomplishment of such goals.

(D) A description of any additional resources that may be necessary to help win this struggle of ideas.

(E) Any recommendations for the creation of, and United States participation in, international institutions for the promotion of democracy and economic diversification in the Islamic world, and intraregional trade in the Middle East.

(F) An estimate of the level of United States financial assistance that would be sufficient to convince United States allies and people in the Islamic world that engaging in the struggle of ideas in the Islamic world is a top priority of the United States and that the United States intends to make a substantial and sustained commitment toward winning this struggle.

(6) OUTREACH THROUGH BROADCAST MEDIA.—A description of a cohesive, long-term strategy of the United States to expand its outreach to foreign Muslim audiences through broadcast media, including the following:

(A) The initiatives of the Broadcasting Board of Governors with respect to outreach to foreign Muslim audiences.

(B) An outline of recommended actions that the United States Government should take to more regularly and comprehensively present a United States point of view through indigenous broadcast media in countries with sizable Muslim populations, including increasing appearances by United States Government officials, experts, and citizens.

(C) An assessment of potential incentives for, and costs associated with, encouraging United States broadcasters to dub or subtitle into Arabic and other relevant languages their news and public affairs programs broadcast in the Muslim world in order to present those programs to a much broader Muslim audience than is currently reached.

(D) Any recommendations the President may have for additional funding and legislation necessary to achieve the objectives of the strategy.

(7) VISAS FOR PARTICIPANTS IN UNITED STATES PROGRAMS.—A description of—

(A) any recommendations for expediting the issuance of visas to individuals who are entering the United States for the purpose of participating in a scholarship, exchange, or visitor program described in subsection (c) of section ___09 without compromising the security of the United States; and

(B) a proposed schedule for implementing any recommendations described in subparagraph (A).

(8) BASIC EDUCATION IN MUSLIM COUNTRIES.—A description of a strategy, that was developed after consultation with nongovernmental organizations and individuals involved in education assistance programs in developing countries, to promote free universal basic education in the countries of the Middle East and in other countries with significant Muslim populations designated by the President. The strategy shall include the following elements:

(A) A description of the manner in which the resources of the United States and the international community shall be used to help achieve free universal basic education in such countries, including—

(i) efforts of the United states to coordinate an international effort;

(ii) activities of the United States to leverage contributions from members of the Group of Eight or other donors; and

(iii) assistance provided by the United States to leverage contributions from the private sector and civil society organizations.

(B) A description of the efforts of the United States to coordinate with other donors to reduce duplication and waste at the global and country levels and to ensure efficient coordination among all relevant departments and agencies of the Government of the United States.

(C) A description of the strategy of the United States to assist efforts to overcome challenges to achieving free universal basic education in such countries, including strategies to target hard to reach populations to promote education.

(D) A listing of countries that the President determines are eligible for assistance under the International Youth Opportunity Fund described in section ___10 and related programs.

(E) A description of the efforts of the United States to encourage countries in the Middle East and other countries with significant Muslim populations designated by the President to develop and implement a national education plan.

(F) A description of activities carried out as part of the International Youth Opportunity Fund to help close the digital divide and expand vocational and business skills in such countries.

(G) An estimate of the funds needed to achieve free universal basic education by 2015 in each country described in subparagraph (D), and an estimate of the amount that has been expended by the United States

and by each such country during the previous fiscal year.

(H) A description of the United States strategy for garnering programmatic and financial support from countries in the Middle East and other countries with significant Muslim populations designated by the President, international organizations, and other countries that share the objectives of the International Youth and Opportunity Fund.

(9) ECONOMIC REFORM.—A description of the efforts of the United States Government to encourage development and promote economic reform in countries that have a significant population of Arab or Muslim individuals, including a description of—

(A) efforts to integrate countries with significant populations of Arab or Muslim individuals into the global trading system; and

(B) actions that the United States Government, acting alone and in partnership with governments in the Middle East, can take to promote intraregional trade and the rule of law in the region.

SEC. ___18. EFFECTIVE DATE.

Notwithstanding section 341 or any other provision of this Act, this title shall take effect on the date of the enactment of this Act.

SA 3943. Mr. INOFE (for Mr. GREGG (for himself, Mr. HARKIN, Mr. KENNEDY, Mr. ENZI, Mr. REED, Mr. DEWINE, Mrs. CLINTON, MR. ROBERTS, Mr. BINGAMAN, Mrs. MURRAY, Mr. DASCHLE, and Mr. DODD)) submitted an amendment intended to be proposed by Mr. INHOFE to the bill H.R. 4278, to amend the Assistive Technology Act of 1998 to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Assistive Technology Act of 2004''.

SEC. 2. AMENDMENT TO THE ASSISTIVE TECHNOLOGY ACT OF 1998.

The Assistive Technology Act of 1998 (29 U.S.C. 3001 et seq.) is amended to read as follows:

''SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'Assistive Technology Act of 1998'.

''(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

''Sec. 1. Short title; table of contents.
''Sec. 2. Findings and purposes.
''Sec. 3. Definitions.
''Sec. 4. State grants for assistive technology.
''Sec. 5. State grants for protection and advocacy services related to assistive technology.
''Sec. 6. National activities.
''Sec. 7. Administrative provisions.
''Sec. 8. Authorization of appropriations.

''SEC. 2. FINDINGS AND PURPOSES.

''(a) FINDINGS.—Congress finds the following:

''(1) Over 54,000,000 individuals in the United States have disabilities, with almost half experiencing severe disabilities that affect their ability to see, hear, communicate, reason, walk, or perform other basic life functions.

''(2) Disability is a natural part of the human experience and in no way diminishes the right of individuals to—

''(A) live independently;

''(B) enjoy self-determination and make choices;

''(C) benefit from an education;

''(D) pursue meaningful careers; and

''(E) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of society in the United States.

''(3) Technology is one of the primary engines for economic activity, education, and innovation in the Nation, and throughout the world. The commitment of the United States to the development and utilization of technology is one of the main factors underlying the strength and vibrancy of the economy of the United States.

''(4) As technology has come to play an increasingly important role in the lives of all persons in the United States, in the conduct of business, in the functioning of government, in the fostering of communication, in the conduct of commerce, and in the provision of education, its impact upon the lives of individuals with disabilities in the United States has been comparable to its impact upon the remainder of the citizens of the United States. Any development in mainstream technology will have profound implications for individuals with disabilities in the United States.

''(5) Substantial progress has been made in the development of assistive technology devices, including adaptations to existing devices that facilitate activities of daily living that significantly benefit individuals with disabilities of all ages. These devices, including adaptations, increase involvement in, and reduce expenditures associated with, programs and activities that facilitate communication, ensure independent functioning, enable early childhood development, support educational achievement, provide and enhance employment options, and enable full participation in community living for individuals with disabilities. Access to such devices can also reduce expenditures associated with early childhood intervention, education, rehabilitation and training, health care, employment, residential living, independent living, recreation opportunities, and other aspects of daily living.

''(6) Over the last 15 years, the Federal Government has invested in the development of comprehensive statewide programs of technology-related assistance, which have proven effective in assisting individuals with disabilities in accessing assistive technology devices and assistive technology services. This partnership between the Federal Government and the States provided an important service to individuals with disabilities by strengthening the capacity of each State to assist individuals with disabilities of all ages meet their assistive technology needs.

''(7) Despite the success of the Federal-State partnership in providing access to assistive technology devices and assistive technology services, there is a continued need to provide information about the availability of assistive technology, advances in improving accessibility and functionality of assistive technology, and appropriate methods to secure and utilize assistive technology in order to maximize the independence and participation of individuals with disabilities in society.

''(8) The combination of significant recent changes in Federal policy (including changes to section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), accessibility provisions of the Help America Vote Act of 2002 (42 U.S.C. 15301 et seq.), and the amendments made to the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) by the No Child Left Behind Act of 2001) and the rapid and unending evolution of technology require a Federal-State investment in State assistive technology systems to continue to ensure that individuals with disabilities reap the benefits of the technological revolution and participate fully in life in their communities.

''(b) PURPOSES.—The purposes of this Act are—

''(1) to support State efforts to improve the provision of assistive technology to individuals with disabilities through comprehensive statewide programs of technology-related assistance, for individuals with disabilities of all ages, that are designed to—

''(A) increase the availability of, funding for, access to, provision of, and training about assistive technology devices and assistive technology services;

''(B) increase the ability of individuals with disabilities of all ages to secure and maintain possession of assistive technology devices as such individuals make the transition between services offered by educational or human service agencies or between settings of daily living (for example, between home and work);

''(C) increase the capacity of public agencies and private entities to provide and pay for assistive technology devices and assistive technology services on a statewide basis for individuals with disabilities of all ages;

''(D) increase the involvement of individuals with disabilities and, if appropriate, their family members, guardians, advocates, and authorized representatives, in decisions related to the provision of assistive technology devices and assistive technology services;

''(E) increase and promote coordination among State agencies, between State and local agencies, among local agencies, and between State and local agencies and private entities (such as managed care providers), that are involved or are eligible to be involved in carrying out activities under this Act;

''(F) increase the awareness and facilitate the change of laws, regulations, policies, practices, procedures, and organizational structures, that facilitate the availability or provision of assistive technology devices and assistive technology services; and

''(G) increase awareness and knowledge of the benefits of assistive technology devices and assistive technology services among targeted individuals and entities and the general population; and

''(2) to provide States with financial assistance that supports programs designed to maximize the ability of individuals with disabilities and their family members, guardians, advocates, and authorized representatives to obtain assistive technology devices and assistive technology services.

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) ADULT SERVICE PROGRAM.—The term 'adult service program' means a program that provides services to, or is otherwise substantially involved with the major life functions of, individuals with disabilities. Such term includes—

''(A) a program providing residential, supportive, or employment services, or employment-related services, to individuals with disabilities;

''(B) a program carried out by a center for independent living, such as a center described in part C of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.);

''(C) a program carried out by an employment support agency connected to adult vocational rehabilitation, such as a one-stop partner, as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801); and

''(D) a program carried out by another organization or vender licensed or registered by the designated State agency, as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705).

''(2) AMERICAN INDIAN CONSORTIUM.—The term 'American Indian consortium' means an entity that is an American Indian Consortium (as defined in section 102 of Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002)), and that is established to provide protection and advocacy services for purposes of receiving funding under subtitle C of title I of such Act (42 U.S.C. 15041 et seq.).

''(3) ASSISTIVE TECHNOLOGY.—The term 'assistive technology' means technology designed to be utilized in an assistive technology device or assistive technology service.

''(4) ASSISTIVE TECHNOLOGY DEVICE.—The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

''(5) ASSISTIVE TECHNOLOGY SERVICE.—The term 'assistive technology service' means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

''(A) the evaluation of the assistive technology needs of an individual with a disability, including a functional evaluation of the impact of the provision of appropriate assistive technology and appropriate services to the individual in the customary environment of the individual;

''(B) a service consisting of purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

''(C) a service consisting of selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, replacing, or donating assistive technology devices;

''(D) coordination and use of necessary therapies, interventions, or services with assistive technology devices, such as therapies, interventions, or services associated with education and rehabilitation plans and programs;

''(E) training or technical assistance for an individual with a disability or, where appropriate, the family members, guardians, advocates, or authorized representatives of such an individual;

''(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services and entities that manufacture or sell assistive technology devices), employers, providers of employment and training services, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities; and

''(G) a service consisting of expanding the availability of access to technology, including electronic and information technology, to individuals with disabilities.

''(6) CAPACITY BUILDING AND ADVOCACY ACTIVITIES.—The term 'capacity building and advocacy activities' means efforts that—

''(A) result in laws, regulations, policies, practices, procedures, or organizational structures that promote consumer-responsive programs or entities; and

''(B) facilitate and increase access to, provision of, and funding for, assistive technology devices and assistive technology services, in order to empower individuals with disabilities to achieve greater independence, productivity, and integration and inclusion within the community and the workforce.

''(7) COMPREHENSIVE STATEWIDE PROGRAM OF TECHNOLOGY-RELATED ASSISTANCE.—The term 'comprehensive statewide program of technology-related assistance' means a consumer-responsive program of technology-related assistance for individuals with disabilities, implemented by a State, and equally available to all individuals with disabilities residing in the State, regardless of their type of disability, age, income level, or location of residence in the State, or the type of assistive technology device or assistive technology service required.

''(8) CONSUMER-RESPONSIVE.—The term 'consumer-responsive'—

''(A) with regard to policies, means that the policies are consistent with the principles of—

''(i) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

''(ii) respect for the privacy, rights, and equal access (including the use of accessible formats) of such individuals;

''(iii) inclusion, integration, and full participation of such individuals in society;

''(iv) support for the involvement in decisions of a family member, a guardian, an advocate, or an authorized representative, if an individual with a disability requests, desires, or needs such involvement; and

''(v) support for individual and systems advocacy and community involvement; and

''(B) with respect to an entity, program, or activity, means that the entity, program, or activity—

''(i) is easily accessible to, and usable by, individuals with disabilities and, when appropriate, their family members, guardians, advocates, or authorized representatives;

''(ii) responds to the needs of individuals with disabilities in a timely and appropriate manner; and

''(iii) facilitates the full and meaningful participation of individuals with disabilities (including individuals from underrepresented populations and rural populations) and their family members, guardians, advocates, and authorized representatives, in—

''(I) decisions relating to the provision of assistive technology devices and assistive technology services to such individuals; and

''(II) decisions related to the maintenance, improvement, and evaluation of the comprehensive statewide program of technology-related assistance, including decisions that affect capacity building and advocacy activities.

''(9) DISABILITY.—The term 'disability' means a condition of an individual that is considered to be a disability or handicap for the purposes of any Federal law other than this Act or for the purposes of the law of the State in which the individual resides.

''(10) INDIVIDUAL WITH A DISABILITY; INDIVIDUALS WITH DISABILITIES.—

''(A) INDIVIDUAL WITH A DISABILITY.—The term 'individual with a disability' means any individual of any age, race, or ethnicity—

''(i) who has a disability; and

''(ii) who is or would be enabled by an assistive technology device or an assistive technology service to minimize deterioration in functioning, to maintain a level of functioning, or to achieve a greater level of functioning in any major life activity.

''(B) INDIVIDUALS WITH DISABILITIES.—The term 'individuals with disabilities' means more than 1 individual with a disability.

''(11) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), and includes a community college receiving funding under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.).

''(12) PROTECTION AND ADVOCACY SERVICES.—The term 'protection and advocacy services' means services that—

''(A) are described in subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.), the Protection and Advocacy for Individuals with Mental Illness Act (42 U.S.C. 10801 et seq.), or section 509 of the Rehabilitation Act of 1973 (29 U.S.C. 794e); and

''(B) assist individuals with disabilities with respect to assistive technology devices and assistive technology services.

''(13) SECRETARY.—The term 'Secretary' means the Secretary of Education.

''(14) STATE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'State' means each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(B) OUTLYING AREAS.—In section 4(b):

''(i) OUTLYING AREA.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(ii) STATE.—The term 'State' does not include the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(15) STATE ASSISTIVE TECHNOLOGY PROGRAM.—The term 'State assistive technology program' means a program authorized under section 4.

''(16) TARGETED INDIVIDUALS AND ENTITIES.—The term 'targeted individuals and entities' means—

''(A) individuals with disabilities of all ages and their family members, guardians, advocates, and authorized representatives;

''(B) underrepresented populations, including the aging workforce;

''(C) individuals who work for public or private entities (including centers for independent living described in part C of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.), insurers, or managed care providers) that have contact, or provide services to, with individuals with disabilities;

''(D) educators at all levels (including providers of early intervention services, elementary schools, secondary schools, community colleges, and vocational and other institutions of higher education) and related services personnel;

''(E) technology experts (including web designers and procurement officials);

''(F) health, allied health, and rehabilitation professionals and hospital employees (including discharge planners);

''(G) employers, especially small business employers, and providers of employment and training services;

''(H) entities that manufacture or sell assistive technology devices;

''(I) entities that carry out community programs designed to develop essential community services in rural and urban areas; and

''(J) other appropriate individuals and entities, as determined for a State by the State.

''(17) TECHNOLOGY-RELATED ASSISTANCE.—The term 'technology-related assistance' means assistance provided through capacity building and advocacy activities that accomplish the purposes described in section 2(b).

''(18) UNDERREPRESENTED POPULATION.—The term 'underrepresented population' means a population that is typically underrepresented in service provision, and includes populations such as persons who have low-incidence disabilities, persons who are minorities, poor persons, persons with limited English proficiency, older individuals, or persons from rural areas.

''(19) UNIVERSAL DESIGN.—The term 'universal design' means a concept or philosophy for designing and delivering products and services that are usable by people with the

widest possible range of functional capabilities, which include products and services that are directly accessible (without requiring assistive technologies) and products and services that are interoperable with assistive technologies.

"SEC. 4. STATE GRANTS FOR ASSISTIVE TECHNOLOGY.

''(a) GRANTS TO STATES.—The Secretary shall award grants under subsection (b) to States to maintain comprehensive statewide programs of technology-related assistance to support programs that are designed to maximize the ability of individuals with disabilities across the human lifespan and across the wide array of disabilities, and their family members, guardians, advocates, and authorized representatives, to obtain assistive technology, and that are designed to increase access to assistive technology.

''(b) AMOUNT OF FINANCIAL ASSISTANCE.—

''(1) IN GENERAL.—From funds made available to carry out this section, the Secretary shall award a grant to each eligible State and eligible outlying area from an allotment determined in accordance with paragraph (2).

''(2) CALCULATION OF STATE GRANTS.—

''(A) BASE YEAR.—Except as provided in subparagraphs (B) and (C), the Secretary shall allot to each State and outlying area for a fiscal year an amount that is not less than the amount the State or outlying area received under the grants provided under section 101 of this Act (as in effect on the day before the date of enactment of the Assistive Technology Act of 2004) for fiscal year 2004.

''(B) RATABLE REDUCTION.—

''(i) IN GENERAL.—If funds made available to carry out this section for any fiscal year are insufficient to make the allotments required for each State and outlying area under subparagraph (A) for such fiscal year, the Secretary shall ratably reduce the allotments for such fiscal year.

''(ii) ADDITIONAL FUNDS.—If, after the Secretary makes the reductions described in clause (i), additional funds become available to carry out this section for the fiscal year, the Secretary shall ratably increase the allotments, until the Secretary has allotted the entire base year amount.

''(C) HIGHER APPROPRIATION YEARS.—Except as provided in subparagraph (D), for a fiscal year for which the amount of funds made available to carry out this section is greater than the base year amount, the Secretary shall—

''(i) make the allotments described in subparagraph (A);

''(ii) from a portion of the remainder of the funds after the Secretary makes the allotments described in clause (i), the Secretary shall—

''(I) from 50 percent of the portion, allot to each State or outlying area an equal amount; and

''(II) from 50 percent of the portion, allot to each State or outlying area an amount that bears the same relationship to such 50 percent as the population of the State or outlying area bears to the population of all States and outlying areas,

until each State has received an allotment of not less than $410,000 and each outlying area has received an allotment of $125,000 under clause (i) and this clause;

''(iii) from the remainder of the funds after the Secretary makes the allotments described in clause (ii), the Secretary shall—

''(I) from 80 percent of the remainder allot to each State an amount that bears the same relationship to such 80 percent as the population of the State bears to the population of all States; and

''(II) from 20 percent of the remainder, allot to each State an equal amount.

''(D) SPECIAL RULE FOR FISCAL YEAR 2005.—Notwithstanding subparagraph (C), if the amount of funds made available to carry out this section for fiscal year 2005 is greater than the base year amount, the Secretary may award grants on a competitive basis for periods of 1 year to States or outlying areas in accordance with the requirements of title III of this Act (as in effect on the day before the date of enactment of the Assistive Technology Act of 2004) to develop, support, expand, or administer an alternative financing program.

''(E) BASE YEAR AMOUNT.—In this paragraph, the term 'base year amount' means the total amount received by all States and outlying areas under the grants described in subparagraph (A) for fiscal year 2004.

''(c) LEAD AGENCY, IMPLEMENTING ENTITY, AND ADVISORY COUNCIL.—

''(1) LEAD AGENCY AND IMPLEMENTING ENTITY.—

''(A) LEAD AGENCY.—

''(i) IN GENERAL.—The Governor of a State shall designate a public agency as a lead agency—

''(I) to control and administer the funds made available through the grant awarded to the State under this section; and

''(II) to submit the application described in subsection (d) on behalf of the State, to ensure conformance with Federal and State accounting requirements.

''(ii) DUTIES.—The duties of the lead agency shall include—

''(I) preparing the application described in subsection (d) and carrying out State activities described in that application, including making programmatic and resource allocation decisions necessary to implement the comprehensive statewide program of technology-related assistance;

''(II) coordinating the activities of the comprehensive statewide program of technology-related assistance among public and private entities, including coordinating efforts related to entering into interagency agreements, and maintaining and evaluating the program; and

''(III) coordinating efforts related to the active, timely, and meaningful participation by individuals with disabilities and their family members, guardians, advocates, or authorized representatives, and other appropriate individuals, with respect to activities carried out through the grant.

''(B) IMPLEMENTING ENTITY.—The Governor may designate an agency, office, or other entity to carry out State activities under this section (referred to in this section as the 'implementing entity'), if such implementing entity is different from the lead agency. The implementing agency shall carry out responsibilities under this Act through a subcontract or another administrative agreement with the lead agency.

''(C) CHANGE IN AGENCY OR ENTITY.—

''(i) IN GENERAL.—On obtaining the approval of the Secretary, the Governor may redesignate the lead agency, or the implementing entity, if the Governor shows to the Secretary good cause why the entity designated as the lead agency, or the implementing entity, respectively, should not serve as that agency or entity, respectively. The Governor shall make the showing in the application described in subsection (d).

''(ii) CONSTRUCTION.—Nothing in this paragraph shall be construed to require the Governor of a State to change the lead agency or implementing entity of the State to an agency other than the lead agency or implementing entity of such State as of the date of enactment of the Assistive Technology Act of 2004.

''(2) ADVISORY COUNCIL.—

''(A) IN GENERAL.—There shall be established an advisory council to provide consumer-responsive, consumer-driven advice to the State for, planning of, implementation of, and evaluation of the activities carried out through the grant, including setting the measurable goals described in subsection (d)(3).

''(B) COMPOSITION AND REPRESENTATION.—

''(i) COMPOSITION.—The advisory council shall be composed of—

''(I) individuals with disabilities that use assistive technology or the family members or guardians of the individuals;

''(II) a representative of the designated State agency, as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705) and the State agency for individuals who are blind (within the meaning of section 101 of that Act (29 U.S.C. 721)), if such agency is separate;

''(III) a representative of a State center for independent living described in part C of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.);

''(IV) a representative of the State workforce investment board established under section 111 of the Workforce Investment Act of 1998 (29 U.S.C. 2821);

''(V) a representative of the State educational agency, as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801); and

''(VI) representatives of other State agencies, public agencies, or private organizations, as determined by the State.

''(ii) MAJORITY.—

''(I) IN GENERAL.—A majority, not less than 51 percent, of the members of the advisory council, shall be members appointed under clause (i)(I).

''(II) REPRESENTATIVES OF AGENCIES.—Members appointed under subclauses (II) through (VI) of clause (i) shall not count toward the majority membership requirement established in subclause (I).

''(iii) REPRESENTATION.—The advisory council shall be geographically representative of the State and reflect the diversity of the State with respect to race, ethnicity, types of disabilities across the age span, and users of types of services that an individual with a disability may receive.

''(C) EXPENSES.—The members of the advisory council shall receive no compensation for their service on the advisory council, but shall be reimbursed for reasonable and necessary expenses actually incurred in the performance of official duties for the advisory council.

''(D) PERIOD.—The members of the State advisory council shall be appointed not later than 120 days after the date of enactment of the Assistive Technology Act of 2004.

''(E) IMPACT ON EXISTING STATUTES, RULES, OR POLICIES.—Nothing in this paragraph shall be construed to affect State statutes, rules, or official policies relating to advisory bodies for State assistive technology programs or require changes to governing bodies of incorporated agencies who carry out State assistive technology programs.

''(d) APPLICATION.—

''(1) IN GENERAL.—Any State that desires to receive a grant under this section shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require.

''(2) LEAD AGENCY AND IMPLEMENTING ENTITY.—The application shall contain information identifying and describing the lead agency referred to in subsection (c)(1)(A). The application shall contain information identifying and describing the implementing entity referred to in subsection (c)(1)(B), if the Governor of the State designates such an entity.

''(3) MEASURABLE GOALS.—The application shall include—

''(A) measurable goals, and a timeline for meeting the goals, that the State has set for addressing the assistive technology needs of individuals with disabilities in the State related to—

''(i) education, including goals involving the provision of assistive technology to individuals with disabilities who receive services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

''(ii) employment, including goals involving the State vocational rehabilitation program carried out under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.);

''(iii) telecommunication and information technology; and

''(iv) community living; and

''(B) information describing how the State will quantifiably measure the goals to determine whether the goals have been achieved.

''(4) INVOLVEMENT OF PUBLIC AND PRIVATE ENTITIES.—The application shall describe how various public and private entities were involved in the development of the application and will be involved in the implementation of the activities to be carried out through the grant, including—

''(A) in cases determined to be appropriate by the State, a description of the nature and extent of resources that will be committed by public and private collaborators to assist in accomplishing identified goals; and

''(B) a description of the mechanisms established to ensure coordination of activities and collaboration between the implementing entity, if any, and the State.

''(5) IMPLEMENTATION.—The application shall include a description of—

''(A) how the State will implement each of the required activities described in subsection (e), except as provided in subsection (e)(6)(A); and

''(B) how the State will allocate and utilize grant funds to implement the activities, including describing proposed budget allocations and planned procedures for tracking expenditures for activities described in paragraphs (2) and (3) of subsection (e).

''(6) ASSURANCES.—The application shall include assurances that—

''(A) the State will annually collect data related to the required activities implemented by the State under this section in order to prepare the progress reports required under subsection (f);

''(B) funds received through the grant—

''(i) will be expended in accordance with this section; and

''(ii) will be used to supplement, and not supplant, funds available from other sources for technology-related assistance, including the provision of assistive technology devices and assistive technology services;

''(C) the lead agency will control and administer the funds received through the grant;

''(D) the State will adopt such fiscal control and accounting procedures as may be necessary to ensure proper disbursement of and accounting for the funds received through the grant;

''(E) the physical facility of the lead agency and implementing entity, if any, meets the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) regarding accessibility for individuals with disabilities;

''(F) a public agency or an individual with a disability holds title to any property purchased with funds received under the grant and administers that property;

''(G) activities carried out in the State that are authorized under this Act, and supported by Federal funds received under this Act, will comply with the standards established by the Architectural and Transportation Barriers Compliance Board under section 508 of the Rehabilitation Act of 1973 (20 U.S.C. 794d); and

''(H) the State will—

''(i) prepare reports to the Secretary in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this Act; and

''(ii) keep such records and allow access to such records as the Secretary may require to ensure the correctness and verification of information provided to the Secretary under this subparagraph.

''(7) STATE SUPPORT.—The application shall include a description of the activities described in paragraphs (2) and (3) of subsection (e) that the State will support with State funds.

''(e) USE OF FUNDS.—

''(1) IN GENERAL.—

''(A) REQUIRED ACTIVITIES.—Except as provided in subparagraph (B) and paragraph (6), any State that receives a grant under this section shall use a portion of the funds made available through the grant to carry out activities described in paragraphs (2) and (3).

''(B) STATE OR NON-FEDERAL FINANCIAL SUPPORT.—A State shall not be required to use a portion of the funds made available through the grant to carry out the category of activities described in subparagraph (A), (B), (C), or (D) of paragraph (2) if, in that State—

''(i) financial support is provided from State or other non-Federal resources or entities for that category of activities; and

''(ii) the amount of the financial support is comparable to, or greater than, the amount of the portion of the funds made available through the grant that the State would have expended for that category of activities, in the absence of this subparagraph.

''(2) STATE-LEVEL ACTIVITIES.—

''(A) STATE FINANCING ACTIVITIES.—The State shall support State financing activities to increase access to, and funding for, assistive technology devices and assistive technology services (which shall not include direct payment for such a device or service for an individual with a disability but may include support and administration of a program to provide such payment), including development of systems to provide and pay for such devices and services, for targeted individuals and entities described in section 3(16)(A), including—

''(i) support for the development of systems for the purchase, lease, or other acquisition of, or payment for, assistive technology devices and assistive technology services; or

''(ii) support for the development of State-financed or privately financed alternative financing systems of subsidies (which may include conducting an initial 1-year feasibility study of, improving, administering, operating, providing capital for, or collaborating with an entity with respect to, such a system) for the provision of assistive technology devices, such as—

''(I) a low-interest loan fund;

''(II) an interest buy-down program;

''(III) a revolving loan fund;

''(IV) a loan guarantee or insurance program;

''(V) a program providing for the purchase, lease, or other acquisition of assistive technology devices or assistive technology services; or

''(VI) another mechanism that is approved by the Secretary.

''(B) DEVICE REUTILIZATION PROGRAMS.—The State shall directly, or in collaboration with public or private entities, carry out assistive technology device reutilization programs that provide for the exchange, repair, recycling, or other reutilization of assistive technology devices, which may include redistribution through device sales, loans, rentals, or donations.

''(C) DEVICE LOAN PROGRAMS.—The State shall directly, or in collaboration with public or private entities, carry out device loan programs that provide short-term loans of assistive technology devices to individuals, employers, public agencies, or others seeking to meet the needs of targeted individuals and entities, including others seeking to comply with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

''(D) DEVICE DEMONSTRATIONS.—

''(i) IN GENERAL.—The State shall directly, or in collaboration with public and private entities, such as one-stop partners, as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801), demonstrate a variety of assistive technology devices and assistive technology services (including assisting individuals in making informed choices regarding, and providing experiences with, the devices and services), using personnel who are familiar with such devices and services and their applications.

''(ii) COMPREHENSIVE INFORMATION.—The State shall directly, or through referrals, provide to individuals, to the extent practicable, comprehensive information about State and local assistive technology venders, providers, and repair services.

''(3) STATE LEADERSHIP ACTIVITIES.—

''(A) IN GENERAL.—A State that receives a grant under this section shall use a portion of not more than 40 percent of the funds made available through the grant to carry out the activities described in subparagraph (B). From that portion, the State shall use at least 5 percent of the portion for activities described in subparagraph (B)(i)(III).

''(B) REQUIRED ACTIVITIES.—

''(i) TRAINING AND TECHNICAL ASSISTANCE.—

''(I) IN GENERAL.—The State shall directly, or provide support to public or private entities with demonstrated expertise in collaborating with public or private agencies that serve individuals with disabilities, to develop and disseminate training materials, conduct training, and provide technical assistance, for individuals from local settings statewide, including representatives of State and local educational agencies, other State and local agencies, early intervention programs, adult service programs, hospitals and other health care facilities, institutions of higher education, and businesses.

''(II) AUTHORIZED ACTIVITIES.—In carrying out activities under subclause (I), the State shall carry out activities that enhance the knowledge, skills, and competencies of individuals from local settings described in subclause (I), which may include—

''(aa) general awareness training on the benefits of assistive technology and the Federal, State, and private funding sources available to assist targeted individuals and entities in acquiring assistive technology;

''(bb) skills-development training in assessing the need for assistive technology devices and assistive technology services;

''(cc) training to ensure the appropriate application and use of assistive technology devices, assistive technology services, and accessible technology for e-government functions;

''(dd) training in the importance of multiple approaches to assessment and implementation necessary to meet the individualized needs of individuals with disabilities; and

''(ee) technical training on integrating assistive technology into the development and implementation of service plans, including any education, health, discharge, Olmstead, employment, or other plan required under Federal or State law.

''(III) TRANSITION ASSISTANCE TO INDIVIDUALS WITH DISABILITIES.—The State shall directly, or provide support to public or private entities to, develop and disseminate training materials, conduct training, facilitate access to assistive technology, and provide technical assistance, to assist—

''(aa) students with disabilities, within the meaning of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), that receive transition services; and

''(bb) adults who are individuals with disabilities maintaining or transitioning to community living.

''(ii) PUBLIC-AWARENESS ACTIVITIES.—

''(I) IN GENERAL.—The State shall conduct public-awareness activities designed to provide information to targeted individuals and entities relating to the availability, benefits, appropriateness, and costs of assistive technology devices and assistive technology services, including—

''(aa) the development of procedures for providing direct communication between providers of assistive technology and targeted individuals and entities, which may include partnerships with entities in the statewide and local workforce investment systems established under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), State vocational rehabilitation centers, public and private employers, or elementary and secondary public schools;

''(bb) the development and dissemination, to targeted individuals and entities, of information about State efforts related to assistive technology; and

''(cc) the distribution of materials to appropriate public and private agencies that provide social, medical, educational, employment, and transportation services to individuals with disabilities.

''(II) COLLABORATION.—The State shall collaborate with entities that receive awards under paragraphs (1) and (3) of section 6(b) to carry out public-awareness activities focusing on infants, toddlers, children, transition-age youth, employment-age adults, seniors, and employers.

''(III) STATEWIDE INFORMATION AND REFERRAL SYSTEM.—

''(aa) IN GENERAL.—The State shall directly, or in collaboration with public or private (such as nonprofit) entities, provide for the continuation and enhancement of a statewide information and referral system designed to meet the needs of targeted individuals and entities.

''(bb) CONTENT.—The system shall deliver information on assistive technology devices, assistive technology services (with specific data regarding provider availability within the State), and the availability of resources, including funding through public and private sources, to obtain assistive technology devices and assistive technology services. The system shall also deliver information on the benefits of assistive technology devices and assistive technology services with respect to enhancing the capacity of individuals with disabilities of all ages to perform activities of daily living.

''(iii) COORDINATION AND COLLABORATION.—The State shall coordinate activities described in paragraph (2) and this paragraph, among public and private entities that are responsible for policies, procedures, or funding for the provision of assistive technology devices and assistive technology services to individuals with disabilities, service providers, and others to improve access to assistive technology devices and assistive technology services for individuals with disabilities of all ages in the State.

''(4) INDIRECT COSTS.—Not more than 10 percent of the funds made available through a grant to a State under this section may be used for indirect costs.

''(5) PROHIBITION.—Funds made available through a grant to a State under this section shall not be used for direct payment for an assistive technology device for an individual with a disability.

''(6) STATE FLEXIBILITY.—

''(A) IN GENERAL.—Notwithstanding paragraph (1)(A) and subject to subparagraph (B), a State may use funds that the State receives under a grant awarded under this section to carry out any 2 or more of the activities described in paragraph (2).

''(B) SPECIAL RULE.—Notwithstanding paragraph (3)(A), any State that exercises its authority under subparagraph (A)—

''(i) shall carry out each of the required activities described in paragraph (3)(B); and

''(ii) shall use not more than 30 percent of the funds made available through the grant to carry out the activities described in paragraph (3)(B).

''(f) ANNUAL PROGRESS REPORTS.—

''(1) DATA COLLECTION.—States shall participate in data collection as required by law, including data collection required for preparation of the reports described in paragraph (2).

''(2) REPORTS.—

''(A) IN GENERAL.—Each State shall prepare and submit to the Secretary an annual progress report on the activities funded under this Act, at such time, and in such manner, as the Secretary may require.

''(B) CONTENTS.—The report shall include data collected pursuant to this section. The report shall document, with respect to activities carried out under this section in the State—

''(i) the type of State financing activities described in subsection (e)(2)(A) used by the State;

''(ii) the amount and type of assistance given to consumers of the State financing activities described in subsection (e)(2)(A) (who shall be classified by type of assistive technology device or assistive technology service financed through the State financing activities, and geographic distribution within the State), including—

''(I) the number of applications for assistance received;

''(II) the number of applications approved and rejected;

''(III) the default rate for the financing activities;

''(IV) the range and average interest rate for the financing activities;

''(V) the range and average income of approved applicants for the financing activities; and

''(VI) the types and dollar amounts of assistive technology financed;

''(iii) the number, type, and length of time of loans of assistive technology devices provided to individuals with disabilities, employers, public agencies, or public accommodations through the device loan program described in subsection (e)(2)(C), and an analysis of the individuals with disabilities who have benefited from the device loan program;

''(iv) the number, type, estimated value, and scope of assistive technology devices exchanged, repaired, recycled, or reutilized (including redistributed through device sales, loans, rentals, or donations) through the device reutilization program described in subsection (e)(2)(B), and an analysis of the individuals with disabilities that have benefited from the device reutilization program;

''(v) the number and type of device demonstrations and referrals provided under subsection (e)(2)(D), and an analysis of individuals with disabilities who have benefited from the demonstrations and referrals;

''(vi)(I) the number and general characteristics of individuals who participated in training under subsection (e)(3)(B)(i) (such as individuals with disabilities, parents, educators, employers, providers of employment services, health care workers, counselors, other service providers, or vendors) and the topics of such training; and

''(II) to the extent practicable, the geographic distribution of individuals who participated in the training;

''(vii) the frequency of provision and nature of technical assistance provided to State and local agencies and other entities;

''(viii) the number of individuals assisted through the public-awareness activities and statewide information and referral system described in subsection (e)(3)(B)(ii);

''(ix) the outcomes of any improvement initiatives carried out by the State as a result of activities funded under this section, including a description of any written policies, practices, and procedures that the State has developed and implemented regarding access to, provision of, and funding for, assistive technology devices, and assistive technology services, in the contexts of education, health care, employment, community living, and information technology and telecommunications, including e-government;

''(x) the source of leveraged funding or other contributed resources, including resources provided through subcontracts or other collaborative resource-sharing agreements, from and with public and private entities to carry out State activities described in subsection (e)(3)(B)(iii), the number of individuals served with the contributed resources for which information is not reported under clauses (i) through (ix) or clause (xi) or (xii), and other outcomes accomplished as a result of such activities carried out with the contributed resources; and

''(xi) the level of customer satisfaction with the services provided.

''SEC. 5. STATE GRANTS FOR PROTECTION AND ADVOCACY SERVICES RELATED TO ASSISTIVE TECHNOLOGY.

''(a) GRANTS.—

''(1) IN GENERAL.—The Secretary shall make grants under subsection (b) to protection and advocacy systems in each State for the purpose of enabling such systems to assist in the acquisition, utilization, or maintenance of assistive technology devices or assistive technology services for individuals with disabilities.

''(2) GENERAL AUTHORITIES.—In providing such assistance, protection and advocacy systems shall have the same general authorities as the systems are afforded under subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.), as determined by the Secretary.

''(b) GRANTS.—

''(1) RESERVATION.—For each fiscal year, the Secretary shall reserve such sums as may be necessary to carry out paragraph (4).

''(2) POPULATION BASIS.—From the funds appropriated under section 8(b) for a fiscal year and remaining after the reservation required by paragraph (1) has been made, the Secretary shall make a grant to a protection and advocacy system within each State in an amount bearing the same ratio to the remaining funds as the population of the State bears to the population of all States.

''(3) MINIMUMS.—Subject to the availability of appropriations, the amount of a grant to a protection and advocacy system under paragraph (2) for a fiscal year shall—

''(A) in the case of a protection and advocacy system located in American Samoa, Guam, the United States Virgin Islands, or the Commonwealth of the Northern Mariana Islands, not be less than $30,000; and

''(B) in the case of a protection and advocacy system located in a State not described in subparagraph (A), not be less than $50,000.

''(4) PAYMENT TO THE SYSTEM SERVING THE AMERICAN INDIAN CONSORTIUM.—

''(A) IN GENERAL.—The Secretary shall make grants to the protection and advocacy system serving the American Indian Consortium to provide services in accordance with this section.

''(B) AMOUNT OF GRANTS.—The amount of such grants shall be the same as the amount provided under paragraph (3)(A).

''(c) DIRECT PAYMENT.—Notwithstanding any other provision of law, the Secretary shall pay directly to any protection and advocacy system that complies with this section, the total amount of the grant made for such system under this section, unless the system provides otherwise for payment of the grant amount.

''(d) CERTAIN STATES.—

''(1) GRANT TO LEAD AGENCY.—Notwithstanding any other provision of this section, with respect to a State that, on November 12, 1998, was described in section 102(f)(1) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, the Secretary shall pay the amount of the grant described in subsection (a), and made under subsection (b), to the lead agency designated under section 4(c)(1) for the State.

''(2) DISTRIBUTION OF FUNDS.—A lead agency to which a grant amount is paid under paragraph (1) shall determine the manner in which funds made available through the grant will be allocated among the entities that were providing protection and advocacy services in that State on the date described in such paragraph, and shall distribute funds to such entities. In distributing such funds, the lead agency shall not establish any additional eligibility or procedural requirements for an entity in the State that supports protection and advocacy services through a protection and advocacy system. Such an entity shall comply with the same requirements (including reporting and enforcement requirements) as any other entity that receives funding under this section.

''(3) APPLICATION OF PROVISIONS.—Except as provided in this subsection, the provisions of this section shall apply to the grant in the same manner, and to the same extent, as the provisions apply to a grant to a system.

''(e) CARRYOVER.—Any amount paid to an eligible system for a fiscal year under this section that remains unobligated at the end of such fiscal year shall remain available to such system for obligation during the subsequent fiscal year. Program income generated from such amount shall remain available for 2 additional fiscal years after the year in which such amount was paid to an eligible system and may only be used to improve the awareness of individuals with disabilities about the accessibility of assistive technology and assist such individuals in the acquisition, utilization, or maintenance of assistive technology devices or assistive technology services.

''(f) REPORT TO SECRETARY.—An entity that receives a grant under this section shall annually prepare and submit to the Secretary a report that contains such information as the Secretary may require, including documentation of the progress of the entity in—

''(1) conducting consumer-responsive activities, including activities that will lead to increased access, for individuals with disabilities, to funding for assistive technology devices and assistive technology services;

''(2) engaging in informal advocacy to assist in securing assistive technology devices and assistive technology services for individuals with disabilities;

''(3) engaging in formal representation for individuals with disabilities to secure systems change, and in advocacy activities to secure assistive technology devices and assistive technology services for individuals with disabilities;

''(4) developing and implementing strategies to enhance the long-term abilities of individuals with disabilities and their family members, guardians, advocates, and authorized representatives to advocate the provision of assistive technology devices and assistive technology services to which the individuals with disabilities are entitled under law other than this Act;

''(5) coordinating activities with protection and advocacy services funded through sources other than this Act, and coordinating activities with the capacity building and advocacy activities carried out by the lead agency; and

''(6) effectively allocating funds made available under this section to improve the awareness of individuals with disabilities about the accessibility of assistive technology and assist such individuals in the acquisition, utilization, or maintenance of assistive technology devices or assistive technology services.

''(g) REPORTS AND UPDATES TO STATE AGENCIES.—An entity that receives a grant under this section shall prepare and submit to the lead agency of the State designated under section 4(c)(1) the report described in subsection (f) and quarterly updates concerning the activities described in subsection (f).

''(h) COORDINATION.—On making a grant under this section to an entity in a State, the Secretary shall solicit and consider the opinions of the lead agency of the State with respect to efforts at coordination of activities, collaboration, and promoting outcomes between the lead agency and the entity that receives the grant under this section.

''SEC. 6. NATIONAL ACTIVITIES.

''(a) IN GENERAL.—In order to support activities designed to improve the administration of this Act, the Secretary, under subsection (b)—

''(1) may award, on a competitive basis, grants, contracts, and cooperative agreements to entities to support activities described in paragraphs (1) and (2) of subsection (b); and

''(2) shall award, on a competitive basis, grants, contracts, and cooperative agreements to entities to support activities described in paragraphs (3), (4), and (5) of subsection (b).

''(b) AUTHORIZED ACTIVITIES.—

''(1) NATIONAL PUBLIC-AWARENESS TOOLKIT.—

''(A) NATIONAL PUBLIC-AWARENESS TOOLKIT.—The Secretary may award a 1-time grant, contract, or cooperative agreement to an eligible entity to support a training and technical assistance program that—

''(i) expands public-awareness efforts to reach targeted individuals and entities;

''(ii) contains appropriate accessible multimedia materials to reach targeted individuals and entities, for dissemination to State assistive technology programs; and

''(iii) in coordination with State assistive technology programs, provides meaningful and up-to-date information to targeted individuals and entities about the availability of assistive technology devices and assistive technology services.

''(B) ELIGIBLE ENTITY.—To be eligible to receive the grant, contract, or cooperative agreement, an entity shall develop a partnership that—

''(i) shall consist of—

''(I) a lead agency or implementing entity for a State assistive technology program or an organization or association that represents implementing entities for State assistive technology programs;

''(II) a private or public entity from the media industry;

''(III) a private entity from the assistive technology industry; and

''(IV) a private employer or an organization or association that represents private employers;

''(ii) may include other entities determined by the Secretary to be necessary; and

''(iii) may include other entities determined by the applicant to be appropriate.

''(2) RESEARCH AND DEVELOPMENT.—

''(A) IN GENERAL.—The Secretary may award grants, contracts, or cooperative agreements to eligible entities to carry out research and development of assistive technology that consists of—

''(i) developing standards for reliability and accessibility of assistive technology, and standards for interoperability (including open standards) of assistive technology with information technology, telecommunications products, and other assistive technology; or

''(ii) developing assistive technology that benefits individuals with disabilities or developing technologies or practices that result in the adaptation, maintenance, servicing, or improvement of assistive technology devices.

''(B) ELIGIBLE ENTITIES.—Entities eligible to receive a grant, contract, or cooperative agreement under this paragraph shall include—

''(i) providers of assistive technology services and assistive technology devices;

''(ii) institutions of higher education, including University Centers for Excellence in Developmental Disabilities Education, Research, and Service authorized under subtitle D of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15061 et seq.), or such institutions offering rehabilitation engineering programs, computer science programs, or information technology programs;

''(iii) manufacturers of assistive technology devices; and

''(iv) professionals, individuals, organizations, and agencies providing services or employment to individuals with disabilities.

''(C) COLLABORATION.—An entity that receives a grant, contract, or cooperative agreement under this paragraph shall, in developing and implementing the project carried out through the grant, contract, or cooperative agreement coordinate activities with the lead agency for the State assistive technology program (or a national organization that represents such programs) and the State advisory council described in section 4(c)(2) (or a national organization that represents such councils).

''(3) STATE TRAINING AND TECHNICAL ASSISTANCE.—

''(A) TRAINING AND TECHNICAL ASSISTANCE EFFORTS.—The Secretary shall award a grant, contract, or cooperative agreement to an entity to support a training and technical assistance program that—

''(i) addresses State-specific information requests concerning assistive technology from entities funded under this Act and public entities not funded under this Act, including—

''(I) requests for information on effective approaches to Federal-State coordination of programs for individuals with disabilities, related to improving funding for or access to assistive technology devices and assistive technology services for individuals with disabilities of all ages;

''(II) requests for state-of-the-art, or model, Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for, and access to, assistive technology devices and assistive technology services;

''(III) requests for information on effective approaches to developing, implementing,

evaluating, and sustaining activities described in sections 4 and 5 and related to improving funding for or access to assistive technology devices and assistive technology services for individuals with disabilities of all ages, and requests for assistance in developing corrective action plans;

''(IV) requests for examples of policies, practices, procedures, regulations, or judicial decisions that have enhanced or may enhance access to funding for assistive technology devices and assistive technology services for individuals with disabilities;

''(V) requests for information on effective approaches to the development of consumer-controlled systems that increase access to, funding for, and awareness of, assistive technology devices and assistive technology services; and

''(VI) other requests for training and technical assistance from entities funded under this Act and public and private entities not funded under this Act;

''(ii) assists targeted individuals and entities by disseminating information about—

''(I) Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for, and access to, assistive technology devices and assistive technology services, to promote fuller independence, productivity, and inclusion in society for individuals with disabilities of all ages; and

''(II) technical assistance activities undertaken under clause (i);

''(iii) provides State-specific, regional, and national training and technical assistance concerning assistive technology to entities funded under this Act, other entities funded under this Act, and public and private entities not funded under this Act, including—

''(I) annually providing a forum for exchanging information concerning, and promoting program and policy improvements in, required activities of the State assistive technology programs;

''(II) facilitating onsite and electronic information sharing using state-of-the-art Internet technologies such as real-time online discussions, multipoint video conferencing, and web-based audio/video broadcasts, on emerging topics that affect State assistive technology programs;

''(III) convening experts from State assistive technology programs to discuss and make recommendations with regard to national emerging issues of importance to individuals with assistive technology needs;

''(IV) sharing best practice and evidence-based practices among State assistive technology programs;

''(V) maintaining an accessible website that includes a link to State assistive technology programs, appropriate Federal departments and agencies, and private associations and developing a national toll-free number that links callers from a State with the State assistive technology program in their State;

''(VI) developing or utilizing existing (as of the date of the award involved) model cooperative volume-purchasing mechanisms designed to reduce the financial costs of purchasing assistive technology for required and discretionary activities identified in section 4, and reducing duplication of activities among State assistive technology programs; and

''(VII) providing access to experts in the areas of banking, microlending, and finance, for entities funded under this Act, through site visits, teleconferences, and other means, to ensure access to information for entities that are carrying out new programs or programs that are not making progress in achieving the objectives of the programs; and

''(iv) includes such other activities as the Secretary may require.

''(B) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under this paragraph, an entity shall have (directly or through grant or contract)—

''(i) experience and expertise in administering programs, including developing, implementing, and administering the required and discretionary activities described in sections 4 and 5, and providing technical assistance; and

''(ii) documented experience in and knowledge about banking, finance, and microlending.

''(C) COLLABORATION.—In developing and providing training and technical assistance under this paragraph, including activities identified as priorities, a recipient of a grant, contract, or cooperative agreement under this paragraph shall collaborate with other organizations, in particular—

''(i) organizations representing individuals with disabilities;

''(ii) national organizations representing State assistive technology programs;

''(iii) organizations representing State officials and agencies engaged in the delivery of assistive technology;

''(iv) the data-collection and reporting providers described in paragraph (5); and

''(v) other providers of national programs or programs of national significance funded under this Act.

''(4) NATIONAL INFORMATION INTERNET SYSTEM.—

''(A) IN GENERAL.—The Secretary shall award a grant, contract, or cooperative agreement to an entity to renovate, update, and maintain the National Public Internet Site established under this Act (as in effect on the day before the date of enactment of the Assistive Technology Act of 2004).

''(B) FEATURES OF INTERNET SITE.—The National Public Internet Site shall contain the following features:

''(i) AVAILABILITY OF INFORMATION AT ANY TIME.—The site shall be designed so that any member of the public may obtain information posted on the site at any time.

''(ii) INNOVATIVE AUTOMATED INTELLIGENT AGENT.—The site shall be constructed with an innovative automated intelligent agent that is a diagnostic tool for assisting users in problem definition and the selection of appropriate assistive technology devices and assistive technology services resources.

''(iii) RESOURCES.—

''(I) LIBRARY ON ASSISTIVE TECHNOLOGY.—The site shall include access to a comprehensive working library on assistive technology for all environments, including home, workplace, transportation, and other environments.

''(II) INFORMATION ON ACCOMMODATING INDIVIDUALS WITH DISABILITIES.—The site shall include access to evidence-based research and best practices concerning how assistive technology can be used to accommodate individuals with disabilities in the areas of education, employment, health care, community living, and telecommunications and information technology.

''(III) RESOURCES FOR A NUMBER OF DISABILITIES.—The site shall include resources relating to the largest possible number of disabilities, including resources relating to low-level reading skills.

''(iv) LINKS TO PRIVATE-SECTOR RESOURCES AND INFORMATION.—To the extent feasible, the site shall be linked to relevant private-sector resources and information, under agreements developed between the recipient of the grant, contract, or cooperative agreement and cooperating private-sector entities.

''(v) LINKS TO PUBLIC-SECTOR RESOURCES AND INFORMATION.—To the extent feasible, the site shall be linked to relevant public-sector resources and information, such as the Internet sites of the Office of Special Education and Rehabilitation Services of the Department of Education, the Office of Disability Employment Policy of the Department of Labor, the Small Business Administration, the Architectural and Transportation Barriers Compliance Board, the Technology Administration of the Department of Commerce, the Jobs Accommodation Network funded by the Office of Disability Employment Policy of the Department of Labor, and other relevant sites.

''(vi) MINIMUM LIBRARY COMPONENTS.—At a minimum, the site shall maintain updated information on—

''(I) State assistive technology program demonstration sites where individuals may try out assistive technology devices;

''(II) State assistive technology program device loan program sites where individuals may borrow assistive technology devices;

''(III) State assistive technology program device reutilization program sites;

''(IV) alternative financing programs or State financing systems operated through, or independently of, State assistive technology programs, and other sources of funding for assistive technology devices; and

''(V) various programs, including programs with tax credits, available to employers for hiring or accommodating employees who are individuals with disabilities.

''(C) ELIGIBLE ENTITY.—To be eligible to receive a grant, contract, or cooperative agreement under this paragraph, an entity shall be a nonprofit organization, for-profit organization, or institution of higher education, that—

''(i) emphasizes research and engineering;

''(ii) has a multidisciplinary research center; and

''(iii) has demonstrated expertise in—

''(I) working with assistive technology and intelligent agent interactive information dissemination systems;

''(II) managing libraries of assistive technology and disability-related resources;

''(III) delivering to individuals with disabilities education, information, and referral services, including technology-based curriculum-development services for adults with low-level reading skills;

''(IV) developing cooperative partnerships with the private sector, particularly with private-sector computer software, hardware, and Internet services entities; and

''(V) developing and designing advanced Internet sites.

''(5) DATA-COLLECTION AND REPORTING ASSISTANCE.—

''(A) IN GENERAL.—The Secretary shall award grants, contracts, and cooperative agreements to entities to assist the entities in carrying out State assistive technology programs in developing and implementing effective data-collection and reporting systems that—

''(i) focus on quantitative and qualitative data elements;

''(ii) measure the outcomes of the required activities described in section 4 that are implemented by the States and the progress of the States toward achieving the measurable goals described in section 4(d)(3);

''(iii) provide States with the necessary information required under this Act or by the Secretary for reports described in section 4(f)(2); and

''(iv) help measure the accrued benefits of the activities to individuals who need assistive technology.

''(B) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative

agreement under this paragraph, an entity shall have personnel with—

''(i) documented experience and expertise in administering State assistive technology programs;

''(ii) experience in collecting and analyzing data associated with implementing required and discretionary activities;

''(iii) expertise necessary to identify additional data elements needed to provide comprehensive reporting of State activities and outcomes; and

''(iv) experience in utilizing data to provide annual reports to State policymakers.

''(c) APPLICATION.—To be eligible to receive a grant, contract, or cooperative agreement under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(d) INPUT.—With respect to the activities described in subsection (b) to be funded under this section, including the national and regionally based training and technical assistance efforts carried out through the activities, in designing the activities the Secretary shall consider, and in providing the activities providers shall include, input of the directors of comprehensive statewide programs of technology-related assistance, directors of alternative financing programs, and other individuals the Secretary determines to be appropriate, especially—

''(1) individuals with disabilities who use assistive technology and understand the barriers to the acquisition of such technology and assistive technology services;

''(2) family members, guardians, advocates, and authorized representatives of such individuals;

''(3) individuals employed by protection and advocacy systems funded under section 5;

''(4) relevant employees from Federal departments and agencies, other than the Department of Education;

''(5) representatives of businesses; and

''(6) venders and public and private researchers and developers.

''SEC. 7. ADMINISTRATIVE PROVISIONS.

''(a) GENERAL ADMINISTRATION.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Assistant Secretary for Special Education and Rehabilitative Services of the Department of Education, acting through the Rehabilitation Services Administration, shall be responsible for the administration of this Act.

''(2) COLLABORATION.—The Assistant Secretary for Special Education and Rehabilitative Services shall consult with the Office of Special Education Programs, the Rehabilitation Services Administration, and the National Institute on Disability and Rehabilitation Research in the Office of Special Education and Rehabilitative Services, and appropriate Federal entities in the administration of this Act.

''(3) ADMINISTRATION.—In administering this Act, the Rehabilitation Services Administration shall ensure that programs funded under this Act will address the needs of individuals with disabilities of all ages, whether the individuals will use the assistive technology to obtain or maintain employment, to obtain education, or for other reasons.

''(4) ORDERLY TRANSITION.—

''(A) IN GENERAL.—The Secretary shall take such steps as the Secretary determines to be appropriate to provide for the orderly transition to, and implementation of, programs authorized by this Act, from programs authorized by the Assistive Technology Act of 1998, as in effect on the day before the date of enactment of the Assistive Technology Act of 2004.

''(B) CESSATION OF EFFECTIVENESS.—Subparagraph (A) ceases to be effective on the date that is 6 months after the date of enactment of the Assistive Technology Act of 2004.

''(b) REVIEW OF PARTICIPATING ENTITIES.—

''(1) IN GENERAL.—The Secretary shall assess the extent to which entities that receive grants under this Act are complying with the applicable requirements of this Act and achieving measurable goals that are consistent with the requirements of the grant programs under which the entities received the grants.

''(2) PROVISION OF INFORMATION.—To assist the Secretary in carrying out the responsibilities of the Secretary under this section, the Secretary may require States to provide relevant information, including the information required under subsection (d).

''(c) CORRECTIVE ACTION AND SANCTIONS.—

''(1) CORRECTIVE ACTION.—If the Secretary determines that an entity that receives a grant under this Act fails to substantially comply with the applicable requirements of this Act, or to make substantial progress toward achieving the measurable goals described in subsection (b)(1) with respect to the grant program, the Secretary shall assist the entity, through technical assistance funded under section 6 or other means, within 90 days after such determination, to develop a corrective action plan.

''(2) SANCTIONS.—If the entity fails to develop and comply with a corrective action plan described in paragraph (1) during a fiscal year, the entity shall be subject to 1 of the following corrective actions selected by the Secretary:

''(A) Partial or complete termination of funding under the grant program, until the entity develops and complies with such a plan.

''(B) Ineligibility to participate in the grant program in the following year.

''(C) Reduction in the amount of funding that may be used for indirect costs under section 4 for the following year.

''(D) Required redesignation of the lead agency designated under section 4(c)(1) or an entity responsible for administering the grant program.

''(3) APPEALS PROCEDURES.—The Secretary shall establish appeals procedures for entities that are determined to be in noncompliance with the applicable requirements of this Act, or have not made substantial progress toward achieving the measurable goals described in subsection (b)(1).

''(4) SECRETARIAL ACTION.—As part of the annual report required under subsection (d), the Secretary shall describe each such action taken under paragraph (1) or (2) and the outcomes of each such action.

''(5) PUBLIC NOTIFICATION.—The Secretary shall notify the public, by posting on the Internet website of the Department of Education, of each action taken by the Secretary under paragraph (1) or (2). As a part of such notification, the Secretary shall describe each such action taken under paragraph (1) or (2) and the outcomes of each such action.

''(d) ANNUAL REPORT TO CONGRESS.—

''(1) IN GENERAL.—Not later than December 31 of each year, the Secretary shall prepare, and submit to the President and to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, a report on the activities funded under this Act to improve the access of individuals with disabilities to assistive technology devices and assistive technology services.

''(2) CONTENTS.—Such report shall include—

''(A) a compilation and summary of the information provided by the States in annual progress reports submitted under section 4(f); and

''(B) a summary of the State applications described in section 4(d) and an analysis of the progress of the States in meeting the measurable goals established in State applications under section 4(d)(3).

''(e) CONSTRUCTION.—Nothing in this section shall be construed to affect the enforcement authority of the Secretary, another Federal officer, or a court under part D of the General Education Provisions Act (20 U.S.C. 1234 et seq.) or other applicable law.

''(f) EFFECT ON OTHER ASSISTANCE.—This Act may not be construed as authorizing a Federal or State agency to reduce medical or other assistance available, or to alter eligibility for a benefit or service, under any other Federal law.

''(g) RULE.—The Assistive Technology Act of 1998 (as in effect on the day before the date of enactment of the Assistive Technology Act of 2004) shall apply to funds appropriated under the Assistive Technology Act of 1998 for fiscal year 2004.

''SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

''(a) STATE GRANTS FOR ASSISTIVE TECHNOLOGY AND NATIONAL ACTIVITIES.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out sections 4 and 6 such sums as may be necessary for each of fiscal years 2005 through 2010.

''(2) RESERVATION.—

''(A) DEFINITION.—In this paragraph, the term 'higher appropriation year' means a fiscal year for which the amount appropriated under paragraph (1) and made available to carry out section 4 is at least $665,000 greater than the amount that—

''(i) was appropriated under section 105 of this Act (as in effect on October 1, 2003) for fiscal year 2004; and

''(ii) was not reserved for grants under section 102 or 104 of this Act (as in effect on such date) for fiscal year 2004.

''(B) AMOUNT RESERVED FOR NATIONAL ACTIVITIES.—Of the amount appropriated under paragraph (1) for a fiscal year—

''(i) not more than $1,235,000 may be reserved to carry out section 6, except as provided in clause (ii); and

''(ii) for a higher appropriation year—

''(I) not more than $1,900,000 may be reserved to carry out section 6; and

''(II) of the amount so reserved, the portion exceeding $1,235,000 shall be used to carry out paragraphs (1) and (2) of section 6(b).

''(b) STATE GRANTS FOR PROTECTION AND ADVOCACY SERVICES RELATED TO ASSISTIVE TECHNOLOGY.—There are authorized to be appropriated to carry out section 5 $4,419,000 for fiscal year 2005 and such sums as may be necessary for each of fiscal years 2006 through 2010.''.

SEC. 3. CONFORMING AMENDMENTS.

(a) DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT OF 2000.—The Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.) is amended—

(1) in section 124(c)(3)(B), by striking ''section 101 or 102 of the Assistive Technology Act of 1998 (29 U.S.C. 3011, 3012)'' and inserting ''section 4 or 5 of the Assistive Technology Act of 1998'';

(2) in section 125(c)(5)(G)(i), by striking ''section 101 or 102 of the Assistive Technology Act of 1998 (29 U.S.C. 3011, 3012)'' and inserting ''section 4 or 5 of the Assistive Technology Act of 1998'';

(3) in section 143(a)(2)(D)(ii), by striking ''section 101 or 102 of the Assistive Technology Act of 1998 (29 U.S.C. 3011, 3012)'' and inserting ''section 4 or 5 of the Assistive Technology Act of 1998''; and

(4) in section 154(a)(3)(E)(ii)(VI), by striking ''section 101 or 102 of the Assistive Technology Act of 1998 (29 U.S.C. 3011, 3012)'' and inserting ''section 4 or 5 of the Assistive Technology Act of 1998''.

(b) REHABILITATION ACT OF 1973.—The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) is amended—

(1) in section 203, by striking subsection (e) and inserting the following:

''(e) In this section—

''(1) the terms 'assistive technology' and 'universal design' have the meanings given the terms in section 3 of the Assistive Technology Act of 1998; and

''(2) the term 'targeted individuals' has the meaning given the term 'targeted individuals and entities' in section 3 of the Assistive Technology Act of 1998.'';

(2) in section 401(c)(2), by striking ''targeted individuals'' and inserting ''targeted individuals and entities''; and

(3) in section 502(d), by striking ''targeted individuals'' and inserting ''targeted individuals and entities''.

SA 3944. Mr. INHOFE (for Mr. LEAHY (for himself and Mr. HATCH) proposed an amendment to the bill H.R. 2714, to reauthorize the State Justice Institute; as follows:

On page 3, after line 5, add the following:

SEC. 4. LAW ENFORCEMENT ARMOR VESTS.

Section 1001(a)(23) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(23)) is amended by striking ''2004'' and inserting ''2007''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, September 30 at 10:30 a.m. to receive testimony regarding issues relating to low level radioactive waste.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to continue its markup on Thursday, September 30, 2004 at 9:30 a.m. in Dirksen Senate Office Building Room 226.

Agenda

I. Nominations

Claude A. Allen, to be U.S. Circuit Judge for the Fourth Circuit; Susan B. Neilson, to be United States Circuit Judge for the Sixth Circuit; Micaela Alvarez, to be United States District Judge for the Southern District of Texas; Keith Starrett, to be United States District Judge for the Southern District of Mississippi; Christopher Boyko, to be United States District Judge for the Northern District of Ohio; Raymond L. Finch, to be Judge for the District Court of the Virgin Islands for a term of ten years, reappointment; David E. Nahmias, to be United States Attorney for the Northern District of Georgia; Richard B. Roper, to be United States Attorney for the Northern District of Texas for the term of four years; Lisa Wood, to be United States Attorney for the Southern District of Georgia for the term of four years; Ricardo H. Hinojosa, to be Chair of the United States Sentencing Commission; Michael O'Neill, to be a Member of the United States Sentencing Commission; Ruben Castillo, to be a Member of the United States Sentencing Commission; Beryl Alaine Howell, to be a Member of the United States Sentencing Commission; and William Sanchez, to be Special Counsel for Immigration-Related Unfair Employment Practice.

II. Legislation

S. 1635, L–1 Visa (Intracompany Transferee) Reform Act of 2003, Chambliss;

S. 2396, Federal Courts Improvement Act of 2004, Hatch, Leahy, Chambliss, Durbin, Schumer;

S. 2204, A bill to provide criminal penalties for false information and hoaxes relating to terrorism Act of 2004, Hatch, Schumer, Cornyn, Feinstein, DeWine;

S. 1860, A bill to reauthorize the Office of National Drug Control Policy Act of 2003, Hatch, Biden, Grassley;

S. 2195, A bill to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors Act of 2004, Biden, Hatch, Grassely, Feinstein;

S. 2560, A bill to amend chapter 5 of title 17, United States Code, relating to inducement of copyright infringement, and for other purposes Act of 2004, Hatch, Leahy, Graham;

S.J. Res. 23, A joint resolution proposing an amendment to the Constitution of the United States providing for the event that one-fourth of the members of either the House of Representatives or the Senate are killed or incapacitated Act of 2003, Cornyn, Chambliss;

S. 2373, A bill to modify the prohibition on recognition by United States courts of certain rights relating to certain marks, trade names, or commercial names, Domenici, Graham, Sessions;

S. 1784, A bill to eliminate the safe-harbor exception for certain packaged pseudoephedrine products used in the manufacture of methamphetamine Act of 2003, Feinstein, Grassley, Kohl, Biden, Kyl, Schumer;

S. ____, A bill to reauthorize the Department of Justice, Hatch;

H.R. 2391, To amend title 35, United States Code, to promote cooperative research involving universities, the public sector, and private enterprises Act of 2003, Smith–TX;

S. 2760, A bill to limit and expedite Federal collateral review of convictions for killing a public safety officer Act of 2004, Kyl, Hatch, Craig, Cornyn, Sessions, Chambliss;

S. 115, Private Bill; A bill for the relief of Richi James Lesley Act of 2004, Cochran;

S. 2331, A bill for the relief of Fereshteh Sani Act of 2004, Allen;

S. 1042, Private Bill; A bill for the relief of Tchisou Tho Act of 2003, Coleman;

S. 2314, A bill for the relief of Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan Act of 2004, Durbin;

S. 353, Private Bill; A bill for the relief of Denes and Gyorgyi Fulop Act of 2003, Feinstein;

H.R. 867, Private Bill; For the relief of Durreshahwar Durreshahwar, Nida Hasan, Asna Hasan, Anum Hasan, and Iqra Hasan Act of 2003, Holt–NJ;

S. 989, A bill to provide death and disability benefits for aerial firefighters who work on a contract basis for a public agency and suffer death or disability in the line of duty, and for other purposes Act of 2003, Enzi, Reid;

S. 1728, Terrorism Victim Compensation Equity Act of 2003, Specter, Leahy, Schumer;

S. 549, A bill to amend the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note; Public Law 107–42) to provide compensation for victims killed in the bombing of the World Trade Center in 1993, and for other purposes Act of 2003, Schumer;

S. 1740, Anthrax Victims Fund Fairness Act of 2003, Leahy, Feingold; and

S. Res. 424, A resolution designating October 2004 as ''Protecting Older Americans From Fraud Month'' Act of 2004, Craig, DeWine, Feinstein, Kohl, Sessions, Hatch.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, September 30, 2004, to consider the nominations of Mary J. Schoelen and William A. Moorman to be Judges, U.S. Court of Appeals for Veterans' Claims, and Robert Allen Pittman to be Assistant Secretary of Human Resources and Administration, Department of Veterans Affairs. The hearing will take place in room 418 of the Russell Senate Office Building at 2:00 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Subcommittee on Communications be authorized to meet on September 30, 2004, at 2:30 pm. on ICANN Oversight/Security of Internet Root Servers and the Domain Name System (DNS).

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FINANCIAL MANAGEMENT, THE BUDGET, AND INTERNATIONAL SECURITY

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs' Subcommittee on Financial Management, the Budget, and International Security be authorized to meet on Thursday, September 30, 2004 at 10:30 a.m. for a hearing entitled, ''Oversight Hearing

on Section 529 College Savings Plans: High Fees, Inadequate Disclosure, Disparate State Tax Treatment and Questionable Broker Sales Practices.''

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that Dr. Jonathan Epstein, who is a legislative fellow in Senator BINGAMAN's office, be granted the privilege of the floor during the pendency of S. 2845 and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations on the Executive Calendar, and for the information of Members, these are uniformed military promotions that were reported today by the Armed Services Committee: 867 through 900, and all nominations on the Secretary's desk in the Air Force, Army, Marine Corps, and Navy.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed, as follows:

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Bruce A. Carlson

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Dennis R. Larsen

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. William M. Fraser, III

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Carrol H. Chandler

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Stephen G. Wood

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force to the grades indicated under title 10, U.S.C., section 12203:

To be brigadier general

Colonel Robert A. Knauff

The following named officer for appointment to the grade indicated in the United States Air Force under title 10, United States Code, section 9335:

To be brigadier general

Col. Dana H. Born

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Marshall K. Sabol

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Benjamin S. Griffin

The following named officer for appointment as The Surgeon General, United States Army, and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 601 and 3036:

To be lieutenant general

Maj. Gen. Kevin C. Kiley

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. James J. Lovelace, Jr.

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. James M. Dubik

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Robert T. Dail

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. David F. Melcher

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. R. Steven Whitcomb

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. David D. McKiernan

The following named officer for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. James E. Archer
Brig. Gen. Steven P. Best
Brig. Gen. Jack C. Stultz

To be brigadier general

Col. Edward L. Arntson, II
Col. Gregory A. Schumacher
Col. Maynard J. Sanders
Col. Jack F. Nevin
Col. Adolph McQueen, Jr.
Col. Glenn J. Lesniak
Col. Margrit M. Farmer
Col. Norman H. Andersson

To be major general

Brig. Gen. Peter S. Cooke

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Karl R. Horst

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Dana D. Batey

The following named officer for appointment to the grade indicated in the United States Army Veterinary Corps under title 10, U.S.C., sections 3064 and 3084:

To be brigadier general

Col. Michael B. Cates

IN THE MARINE CORPS

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. James N. Mattis

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Edward Hanlon, Jr.

IN THE NAVY

The following named officer for appointment to the grade of Admiral in the United States Navy while assigned to a position of importance and responsibility under title 10, U.S.C., section 601 and title 50, U.S.C., section 2406:

To be admiral

Vice Adm. Kirkland H. Donald

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Charles L. Munns

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. James K. Moran

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Joseph A. Sestak, Jr.

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Mark P. Fitzgerald

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Gary Roughead

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Lewis W. Crenshaw, Jr.

The following named officer for appointment as Deputy Judge Advocate General of the Navy in the grade indicated under title 10, U.S.C., section 5149:

To be rear admiral

Capt. Bruce E. MacDonald

The following named officer for appointment as Judge Advocate General of the Navy in the grade indicated under title 10, U.S.C., section 5149:

To be rear admiral

Rear Adm. James E. McPherson

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral (lower half)

Capt. Norton C. Joerg

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Captain Gerald R. Beaman
Captain Mark S. Boensel
Captain John H. Bowling, II
Captain Mark H. Buzby
Captain Dan W. Davenport
Captain William E. Gortney
Captain Michael R. Groothousen
Captain Victor Guillory
Captain Cecil E. Haney
Captain Harry B. Harris, Jr.
Captain James M. Hart
Captain Ronald H. Henderson, Jr.
Captain Joseph D. Kernan
Captain Raymond M. Klein
Captain Charles J. Leidig, Jr.
Captain Archer M. Macy, Jr.
Captain Michael K. Mahon
Captain Chalres W. Martoglio
Captain Walter M. Skinner
Captain Scott R. Vanbuskirk
Captain Michael C. Vitale
Captain Richard B. Wren

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be read admiral (lower half)

Capt. Christine S. Hunter

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN1848 AIR FORCE nomination of Marjorie B. Medina, which was received by the Senate and appeared in the Congressional Record of July 22, 2004.

PN1849 AIR FORCE nomination of Henry Lee Einsel Jr., which was received by the Senate and appeared in the Congressional Record of July 22, 2004.

PN1850 AIR FORCE nomination of Robert L. Munson, which was received by the Senate and appeared in the Congressional Record of July 22, 2004.

PN1882 AIR FORCE nomination of James Miller, which was received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1883 AIR FORCE nomination (9) beginning MICHAEL M. HARTING, and ending JOEL C. WRIGHT, which was received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1884 AIR FORCE nomination of Dana J. Nelson, which was received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1885 AIR FORCE nomination of William E. Lindsey, which was received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1886 AIR FORCE nomination of Martin S. Fass, which was received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1923 AIR FORCE nomination of Frank A. Posey, which was received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1924 AIR FORCE nomination of Tracey R.* Rockenbach, which was received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1925 AIR FORCE nominations (2) beginning SHANNON D.* HAILES, and ending MICHAEL F. LAMB, which was received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1926 AIR FORCE nominations (4) beginning TOMMY D.* BOUIE, and ending JENNIFER L.* LUCE, which was received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1954 AIR FORCE nominations (3) beginning NOEL D. MONTGOMERY and ending ALEXANDER V.* SERVINO, which was received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1981 AIR FORCE nominations (2) beginning KATHLEEN HARRINGTON, and ending PAUL E. PIROG, which was received by the Senate and appeared in the Congressional Record of September 21, 2004.

PN1982 AIR FORCE nomination of George J. Krakie, which was received by the Senate and appeared in the Congressional Record of September 21, 2004.

PN1983 AIR FORCE nominations (2) beginning DAVID A. LUJAN, and ending MICHAEL C. SCHRAMM, which was received by the Senate and appeared in the Congressional Record of September 21, 2004.

PN1984 AIR FORCE nominations (5) beginning DOUGLAS A. HABERMAN, and ending MATTHEW S. WARNER, which nominations were received by the Senate and appeared in the Congressional Record of September 21, 2004.

PN1985 AIR FORCE nomination of Martin J. Towey, which was received by the Senate and appeared in the Congressional Record of September 21, 2004.

IN THE ARMY

PN1887 ARMY nominations (34) beginning JUAN H. BANKS, and ending LISA N. YARBROUGH, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1927 ARMY nominations (9) beginning MICHAEL J. BLACHURA, and ending RONALD P. WELCH, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1928 ARMY nominations (6) beginning SCOTT A. AYRES, and ending GERALD I. WALTER, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1929 ARMY nominations (6) beginning MARK A. COSGROVE, and ending RONNIE J. WESTMAN, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1930 ARMY nominations (11) beginning STEVEN H. BULLOCK, and ending JOHN M. STANG, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1931 ARMY nominations (119) beginning MICHAEL N. ALBERTSON, and ending WILLIAM S. WOESSNER, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1932 ARMY nominations (91) beginning JOHN W. AMBERG II, and ending RICHARD G. ZOLLER, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1933 ARMY nominations (176) beginning GILBERT ADAMS, and ending SCOTT W. ZURSCHMIT, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1934 ARMY nominations (75) beginning CELETHIA M. ABNER, and ending CHERUB I. * WILLIAMSON, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1936 ARMY nominations (292) beginning THOMAS L. * ADAMS JR., and ending KATHRYN M. * ZAMBONICUTTER, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1955 ARMY nomination of Raymond L. Naworol, which was received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1956 ARMY nomination of Keith A. George, which was received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1957 ARMY nomination of Curtis L. Beck, which was received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1958 ARMY nomination of Rex A. Harrison, which was received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1959 ARMY nominations (2) beginning KEVIN HAMMOND, and ending MICHAEL KNIPPEL, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1960 ARMY nominations (14) beginning JAIME B. * ANDERSON, and ending JOSEPH G. * WILLIAMSON, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1961 ARMY nominations (102) beginning JAMES R. ANDREWS, and ending SHANDA M. ZUGNER, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1962 ARMY nominations (880) beginning MICHAEL C. AARON, and ending X4130, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1963 ARMY nominations (1830) beginning CHRISTOPHER W. * ABBOTT, and ending X3181, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1986 ARMY nomination of John R. Peloquin, which was received by the Senate and appeared in the Congressional Record of September 21, 2004.

IN THE MARINE CORPS

PN1361 MARINE CORPS nomination of John T. Brower, which was received by the

Senate and appeared in the Congressional Record of February 11, 2004.

PN1888 MARINE CORPS nomination of John M. Sessoms, which was received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1987 MARINE CORPS nomination of Randy O. Carter, which was received by the Senate and appeared in the Congressional Record of September 21, 2004.

IN THE NAVY

PN1889 NAVY nominations (146) beginning ANDREW M ARCHILA, and ending RICHARD G ZEBER, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1890 NAVY nominations (22) beginning RAY A BAILEY, and ending DAVID A STROUD, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1891 NAVY nominations (87) beginning RAYMOND ALEXANDER, and ending MARK A ZIEGLER, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1892 NAVY nominations (52) beginning STEVEN W ASHTON, and ending JASON D ZEDA, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1893 NAVY nominations (140) beginning TAMMERA L ACKISS, and ending KATHLEEN L YUHAS, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1894 NAVY nominations (243) beginning IK J AHN, and ending SARA B ZIMMER, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1895 NAVY nominations (40) beginning KERRY L ABRAMSON, and ending ANDRUE E WALL, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1937 NAVY nomination of Arthur B. Short, which was received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1938 NAVY nomination of Scott Drayton, which was received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1939 NAVY nomination of Cipriano Pineda Jr., which was received received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1940 NAVY nominations (25) beginning MICHAEL P AMSTUTZ JR, and ending JAMES J WOJTOWICZ, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1941 NAVY nominations (31) beginning JERRY L ALEXANDER, and ending LORI C WORKS, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1942 NAVY nominations (41) beginning PATRICK L BENNETT, and ending ERNEST C WOODWARD, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1943 NAVY nominations (19) beginning CLAUDE W ARNOLD JR, and ending STEVEN M WENDELIN, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1944 NAVY nominations (31) beginning CHRISTOPHER L BOWEN, and ending WILLIAM L WOOD, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1945 NAVY nominations (63) beginning JULIE M ALFIERI, and ending DONNA I YACOVONI, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1946 NAVY nominations (21) beginning MARIANIE O BALOLONG, and ending KAREN M WINGEART, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1947 NAVY nominations (239) beginning THOMAS G ALFORD, and ending KENDAL T ZAMZOW, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1948 NAVY nominations (809) beginning RYAN D AARON, and ending DAVID G ZOOK, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1964 NAVY nominations (5) beginning GLENN A. JETT, and ending MATTHEW WILLIAMS, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1965 NAVY nominations (65) beginning RICHARD S ADCOOK, and ending JEFFREY G ZELLER, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 2004

PN1966 NAVY nomination of Daniel C. Ritenburg, which was received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1988 NAVY nomination of Dwayne Banks, which was received by the Senate and appeared in the Congressional Record of September 21, 2004.

PN1989 NAVY nominations (8) beginning BILLY R. DAVIS, and ending WILLIAM H. SPEAKS, which nominations were received by the Senate and appeared in the Congressional Record of September 21, 2004.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

WELFARE REFORM EXTENSION ACT, PART VIII

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of H.R. 5149, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5149) to reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2005, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. Mr. President, the state of children's health insurance program, or SCHIP, is one of the largest and most successful expansion of public health insurance for children since the creation of Medicaid. This vitally important program was created through a bipartisan commitment to expanding health coverage for children. Because today is the last day of the fiscal year for the Federal Government, $1.1 billion in unspent SCHIP funds are set to expire. These are funds that have been reallocated and then subsequently have had their availability extended several times over the past few years. In addition approximately $660 million in unspent 2002 state allotments are available to Secretary Thompson to redistribute to states that have spent their 2002 allotments.

I want to go on the record to say that I am absolutely committed to finding a bipartisan solution that will keep the $1.1 billion in the SCHIP program. Congress can, and should, address this issue before recessing in October, but if not, certainly before the close of the session. I want to work together with my colleagues in both parties toward a productive approach. The SCHIP program was created when people reached across the aisle and joined together to do the right thing to get kids health coverage. Today we need to move forward with this same spirit of cooperation and commitment.

We can also improve the SCHIP program to get more kids covered. In 2003, SCHIP covered 5.8 million targeted low-income individuals. However, a substantial number of children who are eligible for health coverage through SCHIP are not enrolled. This is a serious issue that deserves our thoughtful attention. We can do better.

The Federal Government should commit itself to getting more of these kids enrolled. They are entitled to health coverage under this vitally important program, yet billions of SCHIP dollars lie unspent. These unspent dollars are not helping any children today. I would hope that we can work out a plan to target a portion of the $1.1 billion in expiring SCHIP funding towards a coordinated SCHIP outreach plan so that as many eligible children as possible receive the coverage they deserve.

Of course, I am aware that there are fiscal concerns from states that can impede their ability to use State dollars to match Federal SCHIP dollars. Some are also concerned that increased enrollment will place a burden on states already struggling with the rising cost of health care. I really believe, however, that we can find a way to get more kids covered and provide states incentives to do so.

The fact that these funds are expiring does not mean that the SCHIP program is in danger of imminent collapse. That is not the case. While I am informed by CMS that six States face potential SCHIP shortfalls in FY05, Secretary Thompson has indicated that, unless Congress passes legislation to address these shortfalls, he will redistribute the approximately $660 million in 2002 allotments, which is more than enough to make up for these shortfalls in 2005.

Working together, Congress can reallocate the expiring $1.1 billion after tomorrow with no impact on the SCHIP program. In fact, in the past, Congress has acted months later to reallocate expired SCHIP funds back into the program. So it is not the case that September 30th is the ''drop dead date'' for action. In fact, when the FY1998 and FY1999 reallocations expired at the close of FY2002, Congress acted in 2003 to ''reinstate'' these funds through

September 30, 2004. So, even if Congress acts in November to reallocate these funds, this is how Congress has dealt with the issue in the past and it can be done again.

We can work together to get the job done. I am committed to working with members on both sides of the aisle to reach a bipartisan agreement so that we can keep the $1.1 billion in the SCHIP program, address the projected 6-state shortfall and get as many kids as possible the health care coverage for which they are entitled. I believe we can do it if we all commit ourselves to putting kids first and moving ahead together.

Mr. HATCH. Mr. President, as one of the original authors of the CHIP program, I rise to share my strong support for the Children's Health Insurance Program, CHIP. Many are very worried about unspent CHIP dollars for fiscal year 2002 going back to the Treasury after today. I share those concerns. I want that $1.1 billion to remain available so it can be used to pay for health coverage for children. So does the President. So do my colleagues in both the Senate and the House of Representatives. There is no disagreement on that issue. Let me assure you that this will be resolved.

Regardless of what happens on October 1, every State will receive its new CHIP money for fiscal year 2005. Simply put, all States will be given the funds to cover their CHIP expenses while Congress continues to work on ways to use the unspent CHIP money from fiscal year 2002. It is important to remember that Congress has the power to restore these unspent CHIP funds to states once the new fiscal year has begun. In fact, just last year, Congress acted to restore unspent CHIP funds from fiscal years 1998 and 1999 to states several months after these funds went back to the Treasury. And, let me emphasize, once again, the fiscal year 2002 CHIP funds are not needed by any State for its 2005 CHIP program. No child is in danger of losing his or her CHIP coverage.

CHIP has been, for the most part, a great success. Today, there are 5.8 million children enrolled in the CHIP program. We have made good progress in providing health insurance to uninsured children. We have had great successes with the CHIP program since 1997, when it was first created.

However, important issues concerning the program still must be addressed. I believe that the No. 1 issue is reaching out to CHIP-eligible children who currently are not covered by the program. While many States have been successful with their outreach efforts, that is not the case in all States. I am particularly troubled by the difficulties faced by Native American children. Outreach must be addressed by Congress—my primary goal when we were drafting the original CHIP legislation in 1997 was to ensure that CHIP was available for all eligible children.

My biggest concern with one approach for spending the unspent fiscal year 2002 funds is contained in S. 2759, authored by Senators ROCKEFELLER, CHAFEE, KENNEDY and SNOWE, is that it does not directly help enroll the millions of uninsured children who are eligible for CHIP program. I have reviewed the Rockefeller-Kennedy bill and I am not convinced that it does anything to increase CHIP enrollment. Providing health insurance coverage under CHIP to uninsured children should be our top priority, not redistributing CHIP funding to states. Congress has redistributed leftover CHIP funds to states more than once and I am sure that the legislation has made a significant difference in increasing CHIP enrollment of uninsured, CHIP-eligible children.

That is why I am advocating a different approach and placing a higher priority on outreach to these uninsured children. I strongly support the President's goal to have a broad outreach effort through community-based entities such as hospitals, schools, Indian Health Service hospitals and clinics, tribes and tribal organizations, nonprofit community organizations, and Federally-qualified health centers. I also support performance-based grants for states that are successful in enrolling and covering children. These states should be rewarded for their successes in covering more children, instead of facing higher state costs.

While today marks the end of the fiscal year, it does not mark the end of the CHIP program. It does not mean that the CHIP program is going to lose money. It does not mean that states are going to run out of CHIP funds tomorrow. We all agree that these funds should remain in the CHIP program—we just have different ideas on how that money should be spent. Regardless, I am convinced that we will be able to work together on a solution regarding this important issue. I urge all of my colleagues to work to ensure that all eligible children are covered under the Children's Health Insurance Program.

Mr. BINGAMAN. Mr. President, I come to the floor today to express my dismay that the administration and the Congress have failed to prevent almost $1.1 billion in money that has been previous allocated to the State Children's Health Insurance Program, or SCHIP, from expiring. Families USA points out that the loss of these funds approximate the annual cost of providing health coverage to almost 750,000 children. That failure is unacceptable for a nation such as ours.

However, I am pleased to report that both Finance Committee Chairman GRASSLEY and Senator BAUCUS are moving quickly to pull together a bipartisan group together to resolve this problem as soon as possible. Considering that the chairman is the author of important pieces of legislation, such as the Family Opportunity Act, to improve the health of our Nation's children with special health care needs, it should come as no surprise that he is working to bridge the gap between legislation introduced by Senators ROCKEFELLER and CHAFEE that would preserve and reallocate the $1.1 billion in SCHIP funds and the administration's stated position to preserve the funding but take those dollars currently dedicated to health insurance coverage and use them instead ''to enroll more children who remain uninsured despite being eligible for coverage.''

In light of the chairman's dedication to the issue and commitment to a bipartisan solution, I am hopeful that we will get this resolved, and I urge all parties to work toward a compromise as soon as possible.

What is at stake here? According to data from a Kaiser Commission on Medicaid and the Uninsured report that was released on Monday, there were over 9.1 million children who were uninsured in our country in 2003. There have been important strides made in reducing the number of uninsured children since the passage of SCHIP, as the number of uninsured has dropped from 9.4 million uninsured in 2000 to the 9.1 million in 2003. The uninsured rate would have increased dramatically if not for SCHIP. In fact, the uninsured rate for adults during this same timeperiod increased from 30.2 million to 35.5 million.

Regardless of the improvement in children's health, the fact that over 9 million children remain uninsured is absolutely unacceptable for a nation such as ours.

In fact, if every single child living in the 21 States of Alaska, Arkansas, Delaware, Hawaii, Idaho, Iowa, Kansas, Maine, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Rhode Island, South Dakota, Utah, Vermont, West Virginia, Wyoming, and the District of Columbia were uninsured, that would still be less than 9 million children. In other words, the number of children without health insurance in our nation exceeds the number of all children living in 21 states and the District of Columbia combined.

That is not something anybody in the administration or this chamber should find acceptable. We should be doing everything in our power to, at the very least, preclude the loss of over $1 billion that could be used to reduce that uninsured rate.

In New Mexico, the loss of this money is coupled with the loss of an expiring provision that is very important to our State and 10 others. The Center on Budget and Policy Priorities estimates that New Mexico will lose at least $20 million over the next few years in money for children's health if the administration and Congress fails to act.

Moreover, there was a very important provision that was included in the last redistribution effort that allows the 11 States, including New Mexico, Connecticut, Hawaii, Maryland, Minnesota, New Hampshire, Rhode Island, Tennessee, Vermont, Washington, and

Wisconsin, to use up to 20 percent of allotted and retained funds by our States on children who are enrolled in Medicaid with income above 150 percent of poverty. This provision was included to recognize that our 11 States had enacted health care expansions for children prior to the enactment of SCHIP and were being effectively penalized financially for having done the right thing for children prior to 1997. The reason is that children in the other 39 States are able to receive an enhanced matching rate for children as low as 100 percent of poverty while children in states such as Washington cannot receive an enhanced matching rate until a child lives in a family with income above 200 percent of poverty.

This important compromise, which significantly reduces the inequity among the States, was achieved in large part due to the hard and dedicated work of Senators MURRAY, CANTWELL, JEFFORDS, LEAHY, CHAFEE, REED of Rhode Island, DOMENICI, and FRIST.

Unfortunately, that critically important provision will also effectively expire tonight. This will have a detrimental impact on the health and well-being of the children in these States, as this has been funding that our states have counted on for the delivery of children's health services in both Medicaid and SCHIP for fiscal year 2005.

In Secretary THOMPSON's letter to Senator GRASSLEY on Tuesday and the majority Leader's letter to Senator CHAFEE on September 24, 2004, they both failed to recognize this issue. It is for that reason I raise it here again in the Senate to remind my colleagues and the administration that it is an important issue to our 11 States, including that of the Majority Leader, and that, just as we must find a solution to restoring the $1.1 billion in expiring funding for SCHIP, we must also get this other issue resolved as soon as possible.

I strongly urge the administration to reconsider its position that the $1.1 billion should be completely diverted from health coverage to outreach and enrollment. If implemented as proposed, it would result in over 20 percent of SCHIP dollars in 2005 going to outreach and enrollment. While I am a strong supporter of outreach and enrollment in SCHIP, this proposal is both extreme and excessive. In fact, it should be noted that beginning in fiscal year 2002 that expenditures of federal SCHIP funds have begun to exceed federal SCHIP allotments. Therefore, keeping as much funding in actual health coverage is critically important to continue to reduce the number of uninsured children in our nation.

On the other hand, as the sponsor of legislation with the Congressional Hispanic Caucus that authorizes the use of $50 million of SCHIP funding for outreach and enrollment that was subsequently picked up by the majority leader in legislation he introduced, I firmly believe setting aside a limited portion of the $1.1 billion for outreach and enrollment is both necessary to reach a compromise and would also result in better health coverage for children.

In fact, of the 9.1 million uninsured, according to data from the Kaiser Commission on Medicaid and the Uninsured, 6.8 million live in households that have incomes below 200 percent of poverty, which is the level at which most States provide a combination of coverage for children through either their Medicaid or State Children's Health Insurance Programs. While some of these children would not be eligible for either Medicaid or SCHIP due to their immigration status, it is clear from a variety of studies that somewhere between 60 to 85 percent of uninsured children are eligible for but not enrolled in either Medicaid or SCHIP.

Princeton University's publication entitled The Future of Children dedicated much of one issue to looking at successful efforts to improve outreach and enrollment. As one of its articles notes, ''Most important to reducing the uninsurance problem facing children is raising participation in Medicaid and SCHIP, as 76 percent of uninsured children are already eligible for coverage under SCHIP and Medicaid, but are not enrolled. A continued focus on simple and convenient enrollment and renewal systems, as well as proactive outreach and educational efforts, will be key to reaching these children. Special efforts will be needed to enroll Latino and other minority children, children in immigrant families (families in which at least one member is an immigrant), and adolescents. Children in these groups are all over-represented in the ranks of the eligible, but uninsured.''

In New Mexico, we have our own special program along the U.S.-Mexico border that has been funded by the Bureau of Primary Health Care called Border VISION Fornteriza. The program funds the recruitment and training of community health workers or promotoras that have over the years successfully assisted in the enrollment of thousands of children into health coverage through Medicaid and SCHIP. The program was honored as a model program by the U.S.-Mexico Border Commission and it is precisely this type of program that should be encouraged in whatever agreement is reached.

As a point of comparison, when Congress passed the Medicare prescription drug bill last year, hundreds of millions of dollars was dedicated to doing outreach and enrollment to senior citizens and people with disabilities about the prescription drug cards and the pending drug coverage. In contrast, while States can spend some of their administrative dollars in SCHIP on outreach and enrollment, there are no federal funds exclusively dedicated to conduct outreach and enrollment efforts in either Medicaid or SCHIP.

That should change, and I hope my colleagues will closely review the language introduced by me as part of S. 1159 and in S. 2091 introduced by the majority leader on providing outreach and enrollment funding for children's health.

And finally, I am also hopeful that the Senate will consider legislation by Senator LUGAR and me that would streamline enrollment of children in either Medicaid or SCHIP. Just as we know that low-income senior citizens and the disabled enrolled in Medicare Savings Programs are clearly income eligible for the new Medicare prescription drug card and its $600 annual subsidy, I had introduced legislation with Senator LINCOLN to auto-enroll those Medicare beneficiaries into the drug card to get the $600 subsidy.

Dr. Mark McClellan, Administrator of the Centers for Medicare and Medicaid Services, or CMS, worked hard and has agreed that those beneficiaries should be presumed income-eligible and sent the card for them to activate. Over 1 million low-income senior citizens and people with disabilities will now be getting access to the drug card subsidy that would not have otherwise received those funds.

The same type of mechanism should be applied to children' health. The Children's Partnership and the Kaiser Family Foundation recently released a report on what they call ''Express Lane Eligibility.'' This concept is encompassed in Senator LUGAR's legislation by employing ''two common-sense strategies to find and enroll these nearly seven million 'eligible but uninsured' children in health insurance coverage. . . .''

Those common-sense strategies are: No. 1, it targets large numbers of eligible children where they can be found: in other public benefit programs like school lunch and food stamps. More than 70 percent of low-income uninsured children are already receiving other public assistance benefits of some kind; and No. 2 it expedites children's enrollment in health coverage by using information already submitted by parents when they enrolled their children in other benefit programs.

Again, I urge the Congress to also closely look at this successful model to improve enrollment of children into health insurance coverage.

I am terribly disappointed that the expiring SCHIP funds were not retained in a timely manner, but am hopeful that under the leadership of both Senators GRASSLEY and BAUCUS that we will quickly come to a resolution of this issue in which all the $1.1 billion in restored and retained for children's health. Furthermore, I am hopeful that a portion of that funding will be allocated to outreach and enrollment of children and for streamlining enrollment mechanisms into the program.

Mr. SMITH. Mr. President, as we approach the end of the fiscal year, there are many important issues that require our attention. Not the least among them is the extension of $1.1 billion in unspent S-CHIP funding that will revert to the Treasury if Congress does

not take action. This is a vitally important program to the State of Oregon, and to America's children. We must take action to protect this funding.

The State Children's Health Insurance Program, created in 1997, has always had bi-partisan support. Shortly after being elected to the United States Senate in 1996, I strongly supported the creation of this program. I knew that Congress had an opportunity to reach out to millions of low-income children and provide health care coverage. Working with my colleagues and friends, including Senators ORRIN HATCH and EDWARD KENNEDY, in the development of the bipartisan proposal was a pleasure.

Since 1997, we have all continued to work together, members from both sides of the aisle, to extend funding and make improvements to the program. This year should be no different. I know it is an election year, a presidential election year in fact, and that often creates a dynamic where politics can overwhelm policy. However, I am hopeful that we can once again triumph over partisanship and pass legislation that will intervene and prevent the expiration of $1.1 billion in unspent S-CHIP funding. I am confident that if both sides are reasonable and willing to work together we can accomplish this goal by the time Congress recesses on October 8.

As we prepare to take action on a bill, we need to consider that no one member or group of members have all of the answers; that nobody has a monopoly on protecting America's children. We all work every day to protect our Nation's children and ensure that those who come from low-income families receive the nutritional, housing, education and health care assistance that they need. This time should be no different.

I look forward to working with Senators HATCH and KENNEDY, the creators of this remarkable program; President Bush, a strong advocate for our nation's children; Leader FRIST, Chairman GRASSLEY and others to extend funding for this important program.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5149) was read the third time and passed.

TO PROVIDE AN EXTENSION OF HIGHWAY, HIGHWAY SAFETY, MOTOR CARRIER SAFETY, TRANSIT, AND OTHER PROGRAMS FUNDED OUT OF THE HIGHWAY TRUST FUND PENDING ENACTMENT OF A LAW REAUTHORIZING THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

Mr. FRIST. I ask unanimous consent that the Senate now proceed to consideration of H.R. 5183, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5183) to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

There being no objection, the Senate proceeded with the consideration of the bill.

TRANSPORTATION REAUTHORIZATION BILL

Mr. HATCH. Mr. President, today is a disappointing day in the history of Congress. Exactly one year ago, Congress missed the deadline for passing a full transportation reauthorization bill that would fund the Federal portion of highway, transit, and safety projects around the country for the next six-years. The fact that we missed this self-imposed, legislative deadline will come as no surprise to those who follow progress on Capitol Hill, but it is deeply troubling.

Because of the unwillingness of several of my colleagues, Congress is once again forced to use a temporary extension of last year's funding as an inadequate short-term fix to a very real problem. This is an unacceptable outcome and I hope my colleagues will agree we need to pass a fully-funded 6-year bill immediately.

Just as national defense and judicial review are core functions performed by the United States Government to ensure security and fairness for all citizens, transportation infrastructure funding is one of the primary responsibilities of the Federal Government. Adequate transportation infrastructure that is safe and affordable helps facilitate intrastate and interstate trade and provides the physical backbone of our economy. This is certainly a burden that the Federal Government needs to bear on behalf of its citizens. While it was extremely disappointing that Congress allowed the September 30, 2003 deadline to pass without a resolution to this problem, it is simply inexcusable for us to have not successfully addressed this critical need for over a year. I ask my colleagues to commit to coming together before this year's end to pass a six-year reauthorization bill.

I am not naive, I understand that there are always reasons behind the inability for Congress to pass important legislation. And this case is no exception. Over the last year, I have heard the excuses from the legislative and executive branches of government, both Republicans and Democrats. Some argue the transportation funding proposals being debated cost too much; others say they don't provide enough funding to States; still others say the formulas being used to distribute the money are inherently flawed and do not return as much of the Highway Trust Fund proceeds as their State contributes. All of these excuses have merit and need to be worked out to the satisfaction of lawmakers prior to enactment, but it is rational for a person to believe, as I do, that given the high priority transportation funding plays in each and every State, Congress should have reached a compromise by now two years after work on this reauthorization initially began.

As I travel throughout Utah, meeting with the good citizens of my home State, the most frequently-requested issue I am asked to address is the issue of transportation. Every week, Utahns remind me of the constant need we have to maintain our roadways, increase our transit capacity, and provide alternative routes along main arteries in the cities. I certainly understand why this issue is so important to my constituents. Over the last ten years, Utah has seen a dramatic increase in the number of residents who call ''The Beehive State'' home. In fact, there are only three states in the United States who have had larger proportional increases in their populations over the past ten years and all of them border the State of Utah. There is tremendous population growth all over the West, underscoring the critical need we have for a steady increase in transportation funding right now.

The State of Utah receives over $200 million per year in highway funding which goes toward the planning and execution of highway expansion projects. Under the Senate-proposed version of this bill, that number would go to nearly $300 million per year. That increase goes a long way, not all the way, but a long way toward making several important transportation projects a reality. Projects that otherwise might not come to fruition without a federal commitment.

In stating the amount of funding Utah receives, I do not want to give the impression that this Federal funding comes to States without them having to do their part. All of the Federal funds in this bill have a State matching component as well. States spend millions, even billions, of State dollars on transportation every year. Demand for more and better transportation alternatives in the State of Utah have become so severe that State lawmakers are now seriously considering raising the State fuel tax in order to pay for their portion of these projects. Although I hate to see any tax increases, I applaud the efforts of local lawmakers to deal with our transportation

problems with real solutions and adequate funding.

The Utah Department of Transportation—UDOT—has several aggressive highway projects around the State which have been planned for years, budgeted in the State's annual budgeting process, and now only require a federal commitment to help them proceed. I refer to projects like the ongoing reconstruction of I–15 which connects some of the most populous portions of the State from North to South. New I–15 interchanges in Ogden, Layton, and Provo are desperately needed to catch up with the large growth these cities are experiencing. Also, highway projects in Emery County on US–6, a railroad replacement bridge on US–89 in Pleasant Grove, widening of State road 92 in Lehi, and the building of the Northern Corridor in St. George are all projects which suffer terrible setbacks each time Congress cannot come together and pass a transportation reauthorization bill. And there are many, many more projects throughout the State I don't have time to name here, but that are equally as important.

On the transit side, with the recent addition of light rail and rapid bus service to several sections of downtown Salt Lake City, the citizens of Utah have grown to rely heavily on transit as a primary means of transportation. The Utah Transit Authority—UTA—has aggressive plans for projects in the pipeline that will greatly benefit the entire population of Utah. The recent announcement of the Utah Regional Commuter Rail project, which would bring rapid commuter rail service from as far away as Ogden all the way down to Provo, is encouraging and has many residents excited for the future of transit service around the state. As well, the expansions of the light rail lines from downtown Salt Lake to the airport and South Jordan are highly supported by commuters.

UTA receives $70 million to $80 million per year from Federal transit funding projects which not only provide financing for large portions of the light rail and commuter rail projects, but also provide statewide bus service and improvements to a majority of the State's population. Intermodal hubs, intelligent transportation systems, and other advances have forever improved the ease and convenience of commuting in the State of Utah and these programs depend heavily on the transportation reauthorization bill stalled in Congress. Extensions of current law, which have been going on for over a year now, get us nowhere closer to funding these important projects. The size and scope of these projects are so large that they require a long term commitment from the Federal Transit Administration—FTA—in order to get started. However, in the absence of congressional approval of a full six-year bill, the FTA is unable to make the long-term commitments required for local transit authorities to go out and secure their funding. This leaves transit projects in an eternal holding pattern, waiting for someone to commit to their future. This is unacceptable and a terrible way to address the ever growing commuting needs of citizens.

One aspect of this bill that is extremely important to citizens around the State of Utah is the fact that much of the funding for transportation safety and bike path projects comes from Federal sources. The State of Utah combines several million dollars a year with the Federal money provided by this bill to build safer crosswalks, walking bridges, bike paths, and railroad crossings throughout the State. These projects save lives and make enjoying the outdoors a safer activity. Without a Federal commitment to safety and outdoor recreation, these projects would certainly be lost in the difficult budgetary times States are facing.

This past February, when the Senate Finance Committee was considering the ''pay for'' sections of this bill, we faced a daunting task. How do you provide a substantial increase in transportation funding in the face of shrinking fuel tax revenues, without raising taxes or increasing the deficit? This is a difficult question and one the members of the Finance Committee had to deal with in very short order. However, to Senator GRASSLEY's credit, we found a way to provide the substantial increase. It was not easy. There were a lot of tough decisions we had to make. Many ingenious methods were used to increase revenues coming into the Highway Trust Fund, like cracking down on fraud and covering the cost of fuel tax credits currently in the tax code. But when all was said and done, we did it. We provided a 20 percent increase to transportation funding and we didn't raise fuel taxes or create a large deficit that future generations will have to pay off. Was it a sustainable fix that we will be able to deploy every six-years to keep the highway trust fund afloat? No, only a fuel tax increase or a large upswing in the demand for fuel will do that. But, was it a good six-year fix for a difficult problem that was already months overdue? Yes, I believe it was a good short-term fix. In short, the bill was paid for.

As I stated before, the work to reauthorize Federal transportation funding began some two-years ago when aides met to discuss the general structure of a bill. I cannot believe that the State of Utah is the only State which depends heavily on Federal transportation funding to keep up with the demands of maintaining an adequate infrastructure.

Therefore, it simply puzzles me as to why we have not been able to negotiate an acceptable bill in a two-year period. As a conferee appointed to negotiate a final bill, I can tell you first hand, that some Congressional leaders have tried very hard to come to agreement on the specifics of a bill. The efforts of Chairman INHOFE have been extraordinary. He has worked tirelessly to find compromise with leaders who appear unyielding in their particular criticisms of the bill. He has shown his willingness to compromise on his own bill and work with others. I know he does not want to pass a bill with lower funding amounts than the Senate bill, but despite that belief, I applaud him for his willingness to compromise and work toward a productive solution.

As Chairman INHOFE, I have indicated my willingness to compromise on many points in order to get a bill moving. I have made calls to colleagues, I have asked those who have indicated their unwillingness to move to please join the effort and move a bill forward. I have done my part for the citizens of Utah and will continue to do all I can.

More contentious bills than this get negotiated and passed by both houses every year. I know money is tight right now. I know we would all like to see the funding formulas be more favorable for our home States. I know each of us would like to have more funding for our home States than we currently do. But I call on each of my colleagues on both sides of the aisle to please put down your arguments and get back to the negotiating table and finish the transportation reauthorization bill before year's end. Time is short and I realize we must pass a temporary extension bill in order to keep some Federal highway funds flowing. However, I encourage my colleagues to take advantage of the remaining days left in the 108th Congress and come together to pass one of the most important bills before Congress this year. Successful passage of the transportation reauthorization bill will have positive, long-lasting effects on each and every State and I implore my colleagues not to let this opportunity pass.

Frankly, I am disappointed that we have failed to produce a six-year transportation reauthorization bill which fully funds the highway, transit, and safety programs for our States. As I mentioned earlier, the temporary extensions we have been using do not adequately address the transportation needs or our citizens. Temporary extensions frustrate the planning of these large projects, significantly delay the delivery, and make it impossible for States to raise the money necessary to fund their portions of the projects. Capital markets turn a deaf ear to project specific financing when there is no long-term Federal commitment. Only we can rectify this problem and I know we will find the solution. Let's do it sooner rather than later. Let's not wait for this problem to get even more out of hand. Let's do the right thing and come together with an adequately funded compromise. I pledge my efforts in this cause and hope my colleagues will do the same.

Mr. SARBANES. Mr. President, the Transportation Equity Act for the 21st Century, which authorized the Federal highway, transit, and safety programs,

expired 1 year ago today. Although both the Senate and the House have passed comprehensive, multiyear legislation to reauthorize those programs, a conference agreement still has not been worked out. As a result, today the Senate is passing an 8-month extension, the sixth short-term extension since TEA–21 expired. The inherent uncertainty of short-term extensions has made it difficult for State and local governments and transit agencies to make decisions regarding construction, maintenance, and operations.

I want to speak for a moment about the transit program, which falls under the jurisdiction of the Senate Banking Committee. In the Banking Committee's reauthorization hearings, we heard extensive testimony on the critical role of transit in reducing congestion, strengthening our national economy, and improving our quality of life. Transit ridership is at record levels, a testament to Americans' growing need for safe, reliable transportation choices. The same can be said for the other modes as well: demand is increasing along our entire transportation network.

Increased investment is essential if we are to keep up with this demand. The U.S. Department of Transportation has estimated that an average of $127 billion per year is needed over the next two decades to maintain and improve the condition of our highways, bridges, and transit systems. Other estimates show an even greater need. I believe that failure to make the needed investment will result in the continued deterioration of our existing infrastructure, threatening our future mobility and economic strength. Such investment would also have a positive impact in the near term: according to the U.S. Chamber of Commerce, each $1 billion invested in transportation infrastructure creates 47,500 jobs.

In an effort to begin addressing these needs, the Banking Committee passed a reauthorization of the Federal transit program in February of this year. That bill authorized $56.5 billion over 6 years for transit, a substantial increase over TEA–21. As a result of Banking Committee Chairman SHELBY's leadership in developing that piece of legislation, the Federal Public Transportation Act of 2004 was reported out of the Banking Committee unanimously. The Banking Committee bill was incorporated into S. 1072, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act, a 6-year multimodal reauthorization bill, which passed through the Senate with overwhelming bipartisan support.

Notwithstanding the passage in both the Senate and the House of reauthorization bills calling for substantially increased investment, the administration has not been willing to support the kind of investment needed to meet our pressing transit and highway needs. Without a serious commitment from the administration to make such investments, it has been impossible to move forward in the conference process.

Until that process is completed, it is essential that our States and local communities be able to continue to operate and maintain our Nation's roads, bridges, and transit systems. The legislation considered by the Senate today would allow Federal assistance to continue through May 31, 2005, and provides that once a multiyear reauthorization bill is completed, the budgetary firewalls protecting highway and transit spending will be extended around the total amounts authorized for fiscal year 2005 in that multiyear bill. I hope that in the next 8 months the Administration will work cooperatively with the Congress to produce a comprehensive reauthorization bill that will provide the needed resources to address the Nation's urgent transportation needs.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

Mr. REID. Mr. President, this could not have been done without Senator BYRD and Senator STEVENS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5183) was read the third time and passed.

MEASURES READ THE FIRST TIME—H.R. 4596 AND H.R. 4606

Mr. INHOFE. Mr. President, I understand there are two bills at the desk, and I ask for their first reading, en bloc.

The PRESIDING OFFICER. The clerk will report the bills by title.

The legislative clerk read as follows:

A bill (H.R. 4596) to amend Public Law 97–435 to extend the authorization for the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to the Eastern Washington University until December 31, 2009.

A bill (H.R. 4606) to authorize the Secretary of the Interior, acting through the Bureau of Reclamation and in coordination with other Federal, State, and local government agencies, to participate in the funding and implementation of a balanced, long-term groundwater remediation program in California, and for other purposes.

Mr. INHOFE. Mr. President, I ask for its second reading and, in order to place the bills on the calendar under the provisions of rule XIV, I object to my own request, en bloc.

The PRESIDING OFFICER. The bills will have their second reading on the next legislative day.

MEASURE PLACED ON THE CALENDAR—S. 2866

Mr. INHOFE. Mr. President, I understand that there is a bill at the desk and due for its second reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the second time.

The legislative clerk read as follows:

A bill (S. 2866) to amend the Farm Security and Rural Investment Act of 2002 to clarify the authority of the Secretary of Agriculture and the Commodity Credit Corporation to enter into memorandums of understanding with a State regarding the collection of approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans.

Mr. INHOFE. In order to place the bill on the calendar under the provisions of rule XIV, I object to further proceedings.

The PRESIDING OFFICER. The objection having been heard, the bill will be placed on the calendar.

AMENDMENT TO SAFE DRINKING WATER ACT

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 502, H.R. 2771.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2771) to amend the Safe Drinking Water Act to reauthorize the New York City Watershed Protection Program.

There being no objection, the Senate proceeded to consider the bill.

Mr. INHOFE. I ask unanimous consent that the bill be read the third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating thereto be printed in the RECORD, without further intervening or action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2771) was read the third time and passed.

LIMITATIONS AND EXTENSION FOR CERTAIN COASTAL WETLAND CONSERVATION PROJECTS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 670, S. 2495.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2495) to strike limitations on funding and extend the period of authorization for certain coastal wetland conservation projects.

There being no objection, the Senate proceeded to consider the bill.

Mr. INHOFE. I ask unanimous consent that the bill be read a third time and passed; the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2495) was read the third time and passed, as follows:

S. 2495

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COASTAL WETLAND CONSERVATION PROJECT FUNDING.

(a) FUNDING.—Section 306 of the Coastal Wetlands Planning, Protection, and Restoration Act (16 U.S.C. 3955) is amended—

(1) in subsection (a), by striking '', not to exceed $70,000,000,'';

(2) in subsection (b), by striking '', not to exceed $15,000,000''; and

(3) in subsection (c), by striking '', not to exceed $15,000,000,''.

(b) PERIOD OF AUTHORIZATION.—Section 4(a) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(a)) is amended in the second sentence by striking ''2009'' and inserting ''2019''.

AMENDING FISH AND WILDLIFE ACT OF 1956

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 673, H.R. 2408.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2408) to amend the Fish and Wildlife Act of 1956 to reauthorize volunteer programs and community partnerships for national wildlife refuges, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. INHOFE. I ask unanimous consent that the bill be read a third time and passed; the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2408) was read the third time and passed.

IMPROVING ACCESS TO ASSISTIVE TECHNOLOGY FOR INDIVIDUALS WITH DISABILITIES ACT OF 2004

Mr. INHOFE. Mr. President, I ask unanimous consent that the HELP Committee be discharged from further consideration of H.R. 4278, the assistive technology bill, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4278) to amend the Assistive Technology Act of 1998 to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. GREGG. Mr. President, today, I join my colleague, the Senator from Iowa, Mr. HARKINS, and other Members, in seeking final passage of the Assistive Technology Act of 2004.

Senator HARKIN and I were determined to make the reauthorization of this piece of legislation a bipartisan process from the beginning. We have worked closely with the House of Representatives, Departments of Education, Labor, and Commerce, and the Small Business Administration as well as the, business, and research and development communities, the Assistive Technology Act Projects, the Alternative Financing Programs, and the disability community. Together we have successfully crafted a bipartisan and bicameral bill that we are all proud of. This bill follows the administration's lead, and the goals that President Bush set forth in the New Freedom Initiative. We are confident that the bill will be overwhelmingly supported by the President and increase access to assistive technologies for thousands of individuals with disabilities. I am also submitting several letters of support for the bill, from various groups, for the RECORD.

On February 1, 2001, President Bush announced the New Freedom Initiative—a comprehensive program to promote the full participation of people with disabilities in all areas of society by expanding education and employment opportunities, promoting increased access into daily community life, and increasing access to assistive and universally designed technologies. By the Senate finally naming conferees for the Individuals with Disabilities Education Act earlier this month, and by seeking passage of the Assistive Technology Act of 2004 today, we are helping the President fulfill America's promise of ''tearing down the barriers to equality that face many of the 54 million Americans with disabilities.''

One quarter of the President's New Freedom Initiative focuses on technology, and the technology objective is comprised of two key components.

The first is to expand Federal investment in assistive technology research and development by increasing the budgets of the Rehabilitative Engineering Research Centers' for assistive technologies, creating a new fund to help bring assistive technologies to market, and better coordinate the Federal effort in prioritizing immediate assistive and universally designed technology needs in the disability community.

The second is to enhance access to assistive technology by reducing costs associated with purchasing assistive technology and funding for low-interest loan programs to purchase assistive technologies.

The Assistive Technology Act of 2004 before us today is designed to strengthen and build upon these two components. Our efforts focus on enhancing access to technology, reducing the costs associated with purchasing such devices, and increasing technical assistance to entities that serve students with disabilities that receive transition services, adults with disabilities maintaining or transitioning to community living and to employers. Specifically, we accomplish these goals by: reducing bureaucracy; fostering private/public sector relationships; and coordinating Federal initiatives.

Current law focuses on system change activities, and providing information and referral services to people with disabilities and their families. Systems change efforts and information and referral services are important, as people are being born with or acquiring disabilities daily. However, according to several Federal agencies, an individual with a disability may be considered eligible for, and could benefit from, more than 20 Federal programs that directly or indirectly provide assistive technology. Additionally, there are over 25 Federal laws on the financing of assistive technology, all of which impacts local access to such technology.

Considering the number of Federal and State laws that a person has to navigate in order to access services, how long will it take for systems change efforts to remove barriers for accessing assistive technologies for a person with a disability living in Lincoln, NH? Systems change efforts, while worthwhile, do not immediately impact and help a person with a disability obtain assistive technology that he or she may need today. Therefore, this bill modifies the current list of authorized activities by expanding the authority of the State Assistive Technology Act projects to increase the ability of persons with disabilities to experience or obtain assistive technology. Our bill provides the State projects with a tangible set of activities, yet at the same time provides State flexibility to address emerging State needs.

Under this bill, States will provide citizens with access to device loan, reutilization, and financing programs, and equipment demonstration centers by developing such programs, or collaborating with other entities in the State currently operating such programs. In public forums that were held with the disability community, we consistently heard about the abandonment of equipment by persons with disabilities simply because the purchaser did not have an opportunity to try it out or see it demonstrated prior to purchasing the devise. The purpose of device loan and reutilization programs, and equipment demonstration centers is to provide individuals with disabilities the opportunity to receive proper assessments and evaluations for assistive technology, test and obtain information about various devices, and borrow devices and equipment before it is purchased. The financing programs provide access to low interest loans allowing an individual to purchase the device for him or herself or a family member, without having to wait for, rely on, or navigate through the red tape created by our bureaucratic Government systems. Each of these new requirements will help make the most of limited public resources in an environment that emphasizes consumer choice in and control of assistive technology services and funding.

Another major theme of this reauthorization is the reduction of costs associated with assistive technologies and to enhance research and development opportunities in this area. In December of 2003, we began meeting with individuals within the disability community, the State Assistive Technology Act projects, large and small

technology companies, trade associations, and research, development and marketing entities to learn about costs associated with developing assistive technology, and what could be done within this reauthorization to assist with this issue. We learned that many companies, most of which are small businesses, that produce assistive technologies develop products that benefit people that have a specific disability, or a low incidence disability, such as a visual impairment, a hearing loss, or a significant cognitive impairment. Because of the limited number of people that can benefit from these valuable and life-altering devices, the cost of the product remains high. Furthermore, the costs associated with creating a device are high. On the other side, prices for such devices are so expensive that people that need them cannot afford to buy them, and often go without, therefore creating a vicious cycle.

We also learned that numerous companies have product ideas that are ''on the drawing board,'' but the company does not have the funds necessary to develop products and send them to market in a timely fashion. Additionally, we learned that industry has not created their own standards to which assistive technology should be designed. As an example, companies create products that have their own operating systems and/or ports. This is a benefit for the proprietor, as no one else knows exactly what is in the operating system code, no one else can modify it, and people have to purchase the proprietors cord or other item to go with the device. The downside is that an individual with multiple pieces of technology cannot be assured that the various products he or she has can or will work together. Using a Braille Notetaker, for example, the notetaker does not use standard software, and therefore cannot be connected to a computer using an ordinary, over-the-counter cable. Instead, the user must buy the cord separately or purchase additional software, often leaving people unable to work using versions of software that their colleagues use; all of which increases the number of dollars the consumer must spend in order to function in today's society.

To address these concerns, the bill strengthens relationships between federally funded programs, the disability community, private-sector employers, and assistive technology vendors and researchers. It encourages market-based solutions and approaches to developing standards and increasing the number of products and the speed in which products go to market. This will, in-turn, make assistive technologies more affordable. The bill authorizes the Office of Special Education and Rehabilitation Services at the Department of Education to make grants available to for-profit and nonprofit entities resulting in two specific results. The first grant promotes the development of new or improved commercially available assistive technologies that are quick to reach the consumer market and easier for individuals with disabilities to learn to use, customize, fix or update. The second is to encourage the development of innovative and efficient technical practices and strategies for assistive technology products so that they will more reliably interact with the latest and future mainstream information technology, telecommunications products, and other assistive technology such as computer software and hardware.

The final major theme of this reauthorization is providing technical assistance to entities that serve students with disabilities that receive transition services, adults with disabilities maintaining or transitioning to community living, and to employers. We do not want, nor expect States to duplicate programs by creating additional financial loan, equipment loan, reutilization programs and demonstration centers for these populations. That would be a foolish use of federal dollars and would be in violation of a duplication clause in the bill. Our intent is for the State assistive technology projects to inform these specific groups about the beneficial aspects of assistive technology.

The bill accomplishes this task by strengthening relationships between federally funded programs, such as the Assistive Technology Act projects, and private-sector employers by directing the Office of Special Education and Rehabilitation Services at the Department of Education to make a grant available to for-profit and nonprofit entities to enhance public/private partnerships. This grant opportunity supports the development of public service announcements, which can be modified for regional use, to reach out to small businesses, the aging population, and people with disabilities about the benefits of assistive technology.

On July 23 of this year, the U.S. Access Board issued its first comprehensive revision of the Americans with Disabilities Act Accessibility Guidelines, ADAAG, since publishing the original ADAAG in 1991. Among other things, the new ADAAG contains changes to the requirements for employee work areas that will affect many employers once these requirements are issued as regulations by the Department of Justice. Many employers are not aware of the extent to which the Americans with Disabilities Act may require them to make their workplaces accessible. The newly issued ADA Accessibility Guidelines have toughened these requirements, making it more important than ever for employers to know what their obligations are, and to plan accordingly. This bill aggressively engages businesses, especially small businesses, by providing them with greater access to technical assistance and technology so that they can accommodate employees with disabilities and adhere to ADAAG. Additionally, we place an emphasis on the State projects to provide technical assistance that meets the needs of aging workers that are acquiring disabilities and who may need assistive technology to maintain their current level of productivity.

In developing this bill, we have learned from the progressive thinking of the President and the resourcefulness of our Federal agencies and have taken measures to complement their actions. During the Bush administration, funding for special education has increased by more than $3.7 billion for the Part B State Grants program. In fiscal year 2004, nearly $10.1 billion is available for this program, which represents an increase of 59 percent since 2001. Additionally, the Senate version of the Individuals with Disabilities Education Act promotes the involvement of the State vocational rehabilitation system with students with disabilities while still in secondary school. Title IV of the Workforce Investment Act, the ''Rehabilitation Act,'' which passed the Senate in November of last year contains similar conforming language.

In 1999, the Supreme Court handed down the Olmstead decision, which affirmed the right of individuals with disabilities to live in the community, rather than in institutions. However, it was not until President Bush was sworn into office that that decision was implemented on the Federal level. President Bush realized that making the promise of full integration a reality for people with disabilities does not only mean changing existing practices that favor institutionalization over community-based treatment. It also means providing the affordable housing, transportation, and access to assistive technology and State and local government programs and activities that make community life possible. On July 18, 2001, President Bush issued Executive Order 13217, requiring coordination among numerous Federal agencies that administer programs affecting access to the community for people with disabilities of all ages.

The Executive Order has prompted various branches of the Federal Government to make disability issues a priority. In the fiscal year 2001 Department of Labor appropriation, Congress approved an Office of Disability Employment Policy, ODEP, to be headed by an Assistant Secretary. ODEP's mission is to provide leadership to increase employment opportunities for adults and youth with disabilities. The Secretary of Health and Human Services created the Office of Disability in October 2002. The Director of the Office reports to the Secretary and serves as an advisor on HHS activities relating to disabilities. The Office on Disability oversees the implementation and coordination of disability programs, policies and special initiatives for 54 million persons with disabilities. In July of 2003, the Department of Commerce unveiled an initiative to support the development of assistive technologies and to promote the U.S. assistive technology industry.

Moreover, in December of 2003, leaders from the Department of Labor, DOL, and the Small Business Administration, SBA, signed a Strategic Alliance Memo. This document formalized an agreement between the two entities to implement a coordinated, interagency initiative to improve opportunities for people with disabilities to be employed by small businesses, for people acquiring disabilities due to the aging process and wanting to maintain employment, or for people with disabilities to become small business owners. Finally, a little over 6 weeks ago, the Rehabilitation Services Administration at the Department of Education hosted a National Employment Conference. The conference focused on State vocational rehabilitation staff creating and maintaining employer development, business relations, large-scale job placement, and developing of vocational rehabilitation's national network that provides qualified job candidates and employment services to business.

Individuals with disabilities were not a priority in a Presidential administration's domestic policy goals and objects since 1993. This changed when President Bush became President of the United States in 2001, and he signed the Olmstead Executive Order and announced the New Freedom Initiative. The current administration recognizes and believes in the full participation of people with disabilities in all areas of society. This belief has been put into action in numerous ways that I have previously explained. Through this bill, Congress is continuing and enhancing the administration's efforts by increasing access to assistive and universally designed technologies, expanding educational and employment opportunities, promoting increased access into daily community life, and helping members of this misunderstood and underutilized group of citizens achieve and succeed.

Although this reauthorization focuses on three major objectives, the bill takes an important step forward by establishing a grant to the American Indian Consortium for a Protection and Advocacy for Assistive Technology program, PAAT. The Native American Protection & Advocacy Project was established in 1994 to carry out protection and advocacy system programs. The Consortium encompasses 25,351 square miles in Arizona, New Mexico, and Utah and it provides legal representation to Native Americans with disabilities and serves the Navajo Nation, the Hopi Nation and five smaller tribes. We were pleased to make some modifications to the PAAT program as it is a major force in ensuring that children and adults with disabilities can get access to critically needed assistive technology in a variety of settings—school, home, and at work.

Additionally, we stabilized funding for the State programs by supporting State efforts to improve the provision of assistive technology for individuals with disabilities. To ensure that the Federal commitment to independent living and the full participation of individuals with disabilities in society guaranteed through the President's New Freedom Initiative is upheld, the bill removes the sunset provision in the 1998 Act, therefore creating a typical reauthorization cycle. The bill also sets a minimum State allotment of $410,000 per year in order to offset the costs for the additional requirements placed on States to maintain the comprehensive Statewide programs of technology-related assistance for individuals with disabilities of all ages. However, Congress expects States to take ownership of and expand upon the comprehensive Statewide programs of technology-related assistance.

I thank Senator HARKIN, and his staff, particularly Mary Giliberti, for their hard work and dedication in putting together a bipartisan bill that will assist thousands of individuals with disabilities access services and devices that they so desperately need. Next, I would also like to thank my staff, Denzel McGuire and Aaron Bishop, for their hard work in helping put together a bipartisan and bicameral bill. I also thank Senators ROBERTS, DEWINE, WARNER, ENSIGN, ENZI, KENNEDY, REED, MCCAIN, and SPECTER, and their staff members, Jennifer Swenson, Mary Beth Luna, John Robinson, Lindsay Lovlien, Scott Fleming, Michelle Dirst, Connie Garner, Kent Mitchell, Elyse Wasch, Seth Gerson, Ken Lasala, Mark Laisch, and Jennifer Castagna for their tireless effort through this bipartisan process. Next, I would like to thank Congressmen BOEHNER, and KILDEE, and their respective staff, David Cleary and Alex Nock for their willingness ability to negotiate a bipartisan and bicameral bill that will affect the lives of thousands of individuals with disabilities.

Additionally, I thank the various entities that provided Senate staff with invaluable technical assistance. This includes: Liz King, assistant council for the Senate's Office of Legislative Counsel for working with our staff and drafting this legislation, and the research of Sidath Panangala, policy analyst for Congressional Record Service. I also thank members of various Federal Departments that were instrumental in providing us technical assistance while putting this bill together. From the Department of Education: Dr. Troy Justesen, the Assistant Secretary of the Office of Special Education and Rehabilitative Services, OSERS, at the Department of Education, and Carol Cichoswski, and Wava Gregory staff of the Budget Office, and Eric Shulz in Office of Legislation and Congressional Affairs. From the Department of Commerce: Phillip J. Bond, Under Secretary of Commerce for Technology, Ben Wu, Deputy Under Secretary of Commerce for Technology, and Angela Ewell-Madison, Director of the Office of Congressional Affairs. From the Department of Labor: W. Roy Grizzard, Jr., Ed.D., Assistant Secretary of the Office for Disability Employment Policy at the Department of Labor, his chief of staff, J. Kim Cook, Brian Parsons, supervisory policy advisor, and Blake Hanlon, Office of Congressional and Intergovernmental Affairs. Finally, I thank the fine team at the Small Business Administration: Porter Montgomery, associate administrator for policy and planning, Geoff Green, senior analyst, and Michael Berkholtz, assistant administrator for congressional affairs.

Finally, I thank the State Assistive Technology Act projects, and especially the New Hampshire Technology Partnership Project, for providing us with information as we developed this bill. Additionally, I thank the research and development industry, businesses and employers, service providers, and the various and multiple members of the disability community that worked tirelessly, helping us develop an excellent piece of legislation.

Mr. President, I look forward to the final passage of this bill.

I ask unanimous consent letters of support for the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 30, 2004.

Hon. JUDD GREGG,
Chairman, Senate Committee on Health, Education, Labor and Pensions, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN GREGG: On behalf of Microsoft Corporation, I am writing in strong support of legislation at the desk, H.R. 4278, which would reauthorize the Assistive Technology (AT) Act of 1998. The bill would provide critical federal funding for state grant programs that increase access to assistive and accessible technology and related services. The AT Act expires today and without enactment of the reauthorization bill, access to assistive technology for Americans with disabilities could be severely compromised.

Attached is an op-ed piece that appeared in The Hill on July 6, 2004 that discusses the importance of the reauthorization legislation. We urge Congress to act today.

Sincerely,

LAURA RUBY,
Regulatory & Industry Affairs, Microsoft—Accessible Technology Group.

Attachment.

GIVE AMERICA'S DISABLED THE TECHNOLOGY THEY NEED

(By Laura Ruby)

Will America keep its promise to provide equal access to information, education and employment to millions of people with disabilities? If so, then Congress must act quickly to reauthorize the Assistive Technology (AT) Act, which provides federal funding for state grant programs that increase access to assistive and accessible technology and related services.

Ensuring accessibility for people with disabilities is not just a matter of curb cuts, ramps and elevators to eliminate architectural barriers to public buildings and places of employment. Today, it is just as important to provide technology that enables people with disabilities to use personal computers and the Internet, such as devices that read computer text aloud to people who are blind or enable people who can't move their

arms to type and issue computer commands using only their breath or eye movements.

Assistive and accessible technology (AT) can help people of all abilities realize their full potential, but for people with disabilities there is no middle ground. According to the National Council on Disability, ''For Americans without disabilities, technology makes things easier. For Americans with disabilities, technology makes things possible.'' The goal of the AT Act is to ensure that people have access to the technology they need.

On June 23, the Senate, led by Sens. Judd Gregg (R–N.H.) and Tom Harkin (D–Iowa), introduced its bill S. 2595 to reauthorize the AT Act. Earlier this year, Reps. Howard McKeon (R–Calif.), John Boehner (R–Ohio) and Dale Kildee (D–Mich.) shepherded the House bill for AT Act reauthorization (H.R. 4278) through floor passage. The Senate and House must now work together to ensure reauthorization of the act before the end of the current session.

Both bills would strengthen state AT programs. These programs and services are critical, because they ensure technology will be available where people need it—in schools, on the job and in their communities. The AT Act also funds research and development projects, information-system improvements, loan and reutilization programs, and demonstrations that teach people what kind of AT devices are available and how to use them.

Critics may argue that after 15 years of federal investment in this program, people who need assistive technology products and services—along with service providers, school personnel, and employers should already be aware of them. The population that needs AT is not static, however, and it is growing.

A 2003 research study commissioned by Microsoft and conducted by Forrester Data found that 57 percent of working-age computer users could benefit from accessible technology. As the U.S. work force continues to age, the need for AT as a mainstream business resource will increase even more. By 2010, more than half the U.S. population will be 45 or older, age-related impairments will affect more people, and employers will need resources to help workers maintain peak performance.

As the need for AT increases, it will be vital to establish a seamless network of resources and training that can meet people's evolving needs at every stage of life and ensure that all Americans have the help they need with education, employment and independent living. The AT Act helps to do just that by aligning its priorities and provisions with those set forth in other federal legislation, including the Individuals with Disabilities Education Act, the Workforce Investment Act and the Americans with Disabilities integration mandate in Olmstead.

The AT Act will expire on Sept. 30. Without enactment of a reauthorization bill, access to assistive technology for Americans with disabilities could be severely compromised.

Congress now has a chance to remedy this situation, so that Americans with disabilities will know that the services they need will continue to support them in their efforts to work, learn and participate in their communities.

The Senate and House should quickly negotiate a compromise bill and send it to the president for signature. As we approach the 14th anniversary of the Americans with Disabilities Act—signed into law by the first President Bush—Americans need to know our representatives in Congress will not turn their backs on citizens with disabilities. By putting this issue above politics, and re-authorizing the AT Act this year, Congress can deliver on America's promise.

SOCIETY FOR
HUMAN RESOURCE MANAGEMENT,
Alexandria, VA, September 30, 2004.

Hon. JUDD GREGG,
U.S. Senate, Chairman, Senate Health, Education, Labor, and Pensions Committee, Russell Senate Office Building, Washington, DC.

DEAR CHAIRMAN GREGG: On behalf of the more than 190,000 human resource professionals of the Society for Human Resource Management (SHRM), I am writing to express our support and enthusiastic endorsement of H.R. 4278, the Improving Access to Assistive Technology (AT) for Individuals with Disabilities Act of 2004. SHRM implores the U.S. Senate to swiftly pass this legislation which will re-authorize this vitally important program.

The human resource professional is the architect of fair policies and practices ensuring a fair and equitable employment process and workplace. Human resource professionals also play a critical role in responding to requests for workplace accommodations for employees with disabilities. If enacted, H.R. 4278 will help human resource professionals and their organizations seek sound solutions in accommodating prospective and current employees with assistive technology devices. Programs such as these support the creation and promotion of workplace diversity and represent a win-win situation for employers and employees alike. SHRM values diversity as an investment in business excellence. We believe that the workplace environment promotes the inclusion of individual similarities and differences that enhance efficiency and success.

Employment rates of persons with disabilities have always been lower than those of individuals without disabilities. H.R. 4278 authorizes federal funds to provide states, and their respective AT programs, with federal block grants that support activities that provide assistive technology devices to employees with disabilities. SHRM believes that reauthorization of the AT programs represents an important continued commitment to ensure that people with disabilities have access to technology that assists them in seeking and gaining full employment, participation, and accommodation in the workplace.

In addition, H.R. 4278 makes several program improvements that build upon current state activities. For example, the legislation would create a competitive grant for development of a national public awareness toolkit. The goal of the national toolkit is to provide a resource for each state project to expand public awareness of the AT program to targeted individuals and entities such as local media representatives, employer groups, and employee organizations. SHRM believes this provision of H.R. 4278 is of vital importance because it will serve as a tool to reach across broader communities to provide information and resources on how to access the state programs and their various benefits.

H.R. 4278 also establishes grants for research, development and evaluation, as well as alternative financing systems. The first program provides federal and state governments the opportunity to gain access to cutting edge research that analyzes the effectiveness of assistive technology devices and the state projects that administer related AT programs. The development of alternative financing systems would give states flexibility in offering competitive device loan programs, such as: revolving loan funds; loan guarantees or insurance programs; purchase, lease, or acquisition programs; and low interest loan funds. This allows the state AT projects to offer different avenues to gain access to AT devices, which affords the disability community choices in determining which AT device is most effective for their needs. These programs are crucial tools for human resource professionals in meeting the needs of employees with disabilities in the workforce.

HR professionals will continue to play a critical role in the development and execution of workplace policies and procedures in our nation's workplaces. It is vitally important that the federal government enact legislative proposals such as H.R. 4278 that contribute to and promote the successful employment of people with disabilities. Once again, I would like to underscore our strong support for H.R. 4278 and urge quick action by this body on this important measure.

Sincerely,

KATHRON COMPTON,
Chief External Affairs Officer.

THE ARC OF THE UNITED STATES,
Washington, DC, September 30, 2004.

Hon. JUDD GREGG,
Chairman, Senate HELP Committee,
U.S. Senate, Washington, DC.
Hon. EDWARD KENNEDY,
Ranking Member, Senate HELP Committee,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN GREGG AND SENATOR KENNEDY: The Arc of the United States, the nation's largest national organization representing children and adults with cognitive and other developmental disabilities, would like to thank you for your remarkable bipartisan work on HR 4278, the reauthorization of the Assistive Technology Act. The bill before you today makes important strides forward for the AT Act and, ultimately, for the people with cognitive and other disabilities who will be able to go to work, to school and out into their communities. Their increased access to assistive technologies will make it possible for them to participate more fully in every aspect of daily life.

The Arc appreciates the hard work that has gone into every phase of the process of developing and negotiating this vital legislation. We are especially pleased that the bill clearly delineates the authorization of appropriations so that state grants will have defined and equitable minimum allotment levels. We also appreciate the fact that the bill provides flexibility to states to design locally responsive programs while still assuring a focus on activities that will get assistive technology into the hands of the people that need it. We are pleased, as well, that the bill establishes a grant to the American Indian Consortium for a Protection and Advocacy for Assistive Technology (PAAT) program and has enhanced provisions for Research and Development efforts.

We urge you to pass HR 4278 now, and we look forward to working with you as you continue to work to ensure that the future holds nothing but enhancements of the programs and services authorized by this legislation.

Thank you for your support of people with disabilities and their families who will now see increased benefits from the vast technological advances the 21st century will bring. Thank you again for your bipartisan work and your leadership.

Sincerely,

STEVE EIDELMAN,
Executive Director.

EASTER SEALS,
OFFICE OF PUBLIC AFFAIRS,
Washington, DC, September 30, 2004.

Hon. JUDD GREGG,
Chairman, Committee on Health, Education, Labor and Pensions, U.S. Senate, Washington, DC.

DEAR SENATOR GREGG: On behalf of Easter Seals, I am writing to express our support

for passage of the Assistive Technology Act of 2004. We are pleased that we have reached this bipartisan solution to supporting the assistive technology needs of individuals with disabilities.

In order for this bill to reach its main objective, truly increasing access to assistive technology for people with disabilities, we will be working to make sure that adequate funding is provided to support all aspects of the bill, the state projects, existing strong alternative financing programs, protection and advocacy services, projects of national significance on research and development. We look forward to working with you to achieve this goal.

Thank you for your efforts to support assistive technology.

Sincerely,

JENNIFER DEXTER,
Senior Government Relations Specialist.

Mr. KENNEDY. Mr. President, I am proud to join my colleagues in support of final passage of this important bill. The Assistive Technology Act of 2004 will continue and expand the Nation's effort to improve access to assistive technology for all who need it.

Technology is one of the great equalizing forces in our society. A computer can provide a child with insight and access to a world of information they would otherwise never have, and make the ideal of the American dream a reality for many more.

For people with disabilities of all ages, technology is especially important. It can mean the difference between being immobile in the home and becoming a mobile and contributing member of their community. It can mean the difference between being paralyzed by an inability to communicate and communicating at a level previously thought impossible. Technology breaks down barriers to education, employment, health care, community living, civic participation and countless other activities of daily life that we so often take for granted. It allows people with disabilities to reach their full potential.

Since 1988, the Assistive Technology Act has funded projects in every State and territory to raise awareness about the enormous potential of such technology, give individuals an opportunity to test products, and offer low-cost options for purchasing them. Each project has a different focus, but all are providing these core services, and providing them well.

In Massachusetts, the Assistive Technology Project trains individuals with disabilities to be self-advocates. They monitor implementation of State and Federal laws, and operate an Equipment Exchange Trading Post for individuals to exchange or sell assistive technology products. They deserve great credit, and so do the other projects across the Nation.

The Assistive Technology Act of 2004 makes a commitment to continue these projects, in recognition of all the effective work they have done so far. It also asks them to refocus their efforts on the core objective of getting technology into the hands of people with disabilities. It asks them to perform device demonstrations, equipment loans, and device refurbishment, and to provide financing systems such as low-cost loan programs.

In addition to these important activities, it asks State projects to continue their work of educating people with disabilities, agencies that serve them, and employers, about the doors of opportunity that technology can open. It asks them to train personnel who work with people with disabilities to assess whether technology is needed and then how to obtain it. It asks them to integrate technology into education, employment and other service plans, and it improves coordination between agencies that serve people with disabilities.

In particular, it asks State projects to focus on a population that needs technology, but often does not get it—students under the Individuals with Disabilities Education Act in transition from school to work or continuing education. For these students, assistive technology is vitally important. It can mean the difference between living independent and productive lives when they leave school, and being left out of their community and unable to contribute. The legislation asks State projects to better facilitate access to technology for this population. It's a big task, but one I know the projects are able to handle, and it will make a world of difference for thousands of students who make the transition every year from the schoolhouse to home, college, or the workplace.

In addition to focusing the projects on new activities, we take steps to provide resources to make it happen. The act sets a minimum allotment of $410,000 for each State project. This higher minimum will give many smaller States the resources they need to expand and create quality programs. For larger States, any resources above this level will be largely dedicated to helping them meet the increased need they face. We in Congress must do everything we can to see that this legislation receives the funding we know is necessary to implement quality and effective programs State-wide.

This legislation also shifts the authority for administering, monitoring and reporting on the program to the Republican Services Administration. The projects focus on people with disabilities of all ages and on their school, work and basic health and living needs. The RSA is well-equipped to provide the kind of leadership that will allow us to effectively assess their accomplishments, and is required to partner with the Office of Special Education Programs, the National Institute on Disability Research and Rehabilitation and other Federal agencies. I am confident the projects will receive the attention and focus they deserve.

In this legislation, we also continue and expand the work of the protection and advocacy systems that have done so much over the years to make good on the promise of assistive technology.

I commend Senators JUDD GREGG and TOM HARKIN and Representatives JOHN BOEHNER, GEORGE MILLER and BUCK MCKEON for their excellent bipartisan work on this legislation. I also commend Senator JACK REED, Senator JOHN WARNER, Senator PAT ROBERTS and all of my colleagues on the Health, Education, Labor and Pensions Committee for their excellent work. Senator REED deserves special credit for his focus on improving training of local personnel and expanding research and development on new technologies.

Several staff members deserve particular thanks—Aaron Bishop with Senator GREGG, Mary Giliberti with Senator HARKIN, Elyse Wasch and Erica Swanson with Senator REED, David Cleary with Representative BOEHNER and Alex Nock with Representative MILLER. Without their hard work and the hard work of the disability advocates and project directors and staffs in the states, this legislation would not have been possible.

Mr. HARKIN. Mr. President, today the Senate will pass legislation that is critically important to individuals with disabilities and elderly Americans: the Assistive Technology Act of 2004.

I am delighted that we are completing this bill, which will also shortly be passed in the House. I want to thank Senators GREGG, KENNEDY, ROBERTS, REED, and DEWINE, and Representatives BOEHNER and MILLER, among others, for their excellent bipartisan work to get this accomplished.

Assistive technology is absolutely critical to the lives of people with disabilities. According to an NOD/Harris poll earlier this year, 35 percent of individuals with disabilities say that they would not be able to live independently or take care of themselves at home without assistive technology.

Assistive technology also opens up opportunities in education, employment and civic participation that would not otherwise be available to many individuals with disabilities.

As the National Council on Disability puts it: ''For Americans without disabilities, technology makes things easier. For Americans with disabilities, technology makes things possible.''

The bill that we are reauthorizing today builds on the successes of the Assistive Technology Act dating back to 1988. The State Assistive Technology programs have been highly effective in providing information, training, and technical assistance to a wide array of individuals, including people with disabilities, their families, educators, health care professionals and others.

Let me give you an example from my own State of Iowa. Ben Moore, owner of Moore Construction in Iowa City, learned about universal design—the practice of building homes so that people with and without disabilities can get around in them—because of the work of the Iowa Program for Assistive Technology. He went on to build a universally designed home for two Iowans with disabilities. Now he is encouraging other contractors to use universal design to build beautiful homes

that Iowans can remain in as they grow old. Given Iowa's aging population, this is very important work.

Joy Crimmins from Dubuque, IA, has benefited from the advocacy services funded through the act. She has a newly accessible bedroom and bathroom in her home because the assistive technology program provided legal advocacy to her family to get their home modified.

This wonderful work is not happening just in Iowa. The most recent data available, for Fiscal Year 2002, indicates that these programs are making a substantial difference nationally. In 2002, 92,000 equipment demonstrations were provided; 38,000 AT devices were loaned to individuals with disabilities; and more than 6,000 devices were exchanged or recycled. Also, more than 6 million dollars was loaned to individuals with disabilities so they could purchase assistive technology, ranging from a hearing device to an accessible van. The AT programs also provided timely information to Americans, answering 151,000 requests for assistance, and training more than 172,000 people.

Despite all of these successes, we recognize that there is much more to be done. The NOD/Harris poll indicates that 17 percent of individuals with disabilities still do not have the assistive technology device or equipment that they need. And the biggest barrier is cost. In this reauthorization, we emphasize programs that will improve access to assistive technology devices by providing loans, leases or other financing programs as well as recycled equipment.

While there are many important initiatives in this bill, I will highlight a few of the most significant.

First, the bill for the first time authorizes a $410,000 State minimum for each of the State projects to ensure that each state has the funds necessary to carry out the requirements of the act.

The bill also provides that the majority of the Federal funds will be spent on activities designed to provide direct access to assistive technology, including equipment loan, device reutilization, device demonstration, and financing systems.

States will continue their successful public awareness and coordination activities. States will also continue to provide technical assistance, with a new focus on individuals with disabilities who are going through transition periods and need assistive technology to be successful. This is particularly important for students with disabilities who are receiving IDEA services and transitioning to higher education, employment and independent living. It is also critical to adults with disabilities and older Americans who need help maintaining independent living or transitioning from a nursing home or institution to the community.

The Senate recently passed the Individuals with Disabilities Act, and we continue to be concerned about implementation of the ADA and the Olmstead decision. This effort aligns the Assistive Technology Act with these other initiatives.

Because individuals with disabilities still are afforded significantly fewer employment opportunities than individuals without disabilities, the bill places an emphasis on educating employers and employees. One of the projects of national significance authorized in the bill includes development of public service announcements and other means of reaching out to employers, giving them information regarding assistive technology.

The other project of national significance promotes research and development so we can have come up with assistive technologies that can open up more doors for individuals with disabilities.

This reauthorization recognizes the ongoing contribution of protection and advocacy services in making assistive technology available to individuals with disabilities. And it adds the Native American Protection and Advocacy System to those receiving funds under the act. Iowa's successful advocacy program will also be continued under this bill.

These are just a few of the many significant issues addressed in this bill. It is a very comprehensive effort, made possible by the hard work of the many stakeholders that participated.

I want to thank my colleague, Senator GREGG, and his staff, particularly Aaron Bishop and Denzel McGuire, for their excellent work on this bipartisan initiative. I also want to recognize the work of Senators KENNEDY, ROBERTS, REED and DEWINE and their staff members, Kent Mitchell, Connie Garner, Jennifer Swenson, Elyse Wasch, Erica Swanson, and MaryBeth Luna. And I'd like to recognize Congressman BOEHNER and MILLER and their staff members, David Cleary and Alex Nock, for working on this bipartisan, bicameral bill.

As part of this reauthorization process, committee staff have had extensive bipartisan briefings and met with a very wide array of stakeholders. Stakeholders also participated in work groups designed to forge consensus on many of the issues addressed in this bill. As a result, I believe we are passing a very strong bill. I want to thank the many individuals with disabilities, family members, assistive technology programs, vendors, members of the information technology industry, the financial and business community, service providers, advocates, educators and others who gave generously of their time and worked so hard on this bill.

This bill continues the tradition of bipartisan cooperation that has marked every significant disability bill that has been passed by Congress. Just as the ADA, IDEA and other bills have been bipartisan, so is this Assistive Technology Act of 2004, We can all be proud to see it enacted into law.

Mr. REED. Mr. President, I strongly support final passage of H.R. 4278, the Assistive Technology Reauthorization Act of 2004.

This important legislation, the product of bipartisan and bicameral negotiations, reauthorizes the Assistive Technology Act of 1998 and provides individuals with disabilities increased access to critical assistive technology devices and services, focusing on where they are needed most—in schools, on the job, and in the community. These devices and services afford individuals with disabilities a greater opportunity to participate in educational programs, employment prospects, and community activities and thereby, assist them in leading more full, productive, and independent lives.

As an original cosponsor of the Senate version of this bill, I am pleased that some of its provisions on training and research and development which I authored have been included in the final version of the bill before us today. The bill requires states to carry out training activities to enhance the knowledge, skills, and competencies of individuals in local settings statewide, including educators, early intervention, adult service, and health care providers, and others who work with individuals with disabilities. These provisions ensure that local communities will have trained personnel available to meet the specific assistive technology needs of individuals with disabilities.

The bill also establishes a new authority for competitive grants for research and development of new assistive technology devices and for the adaptation, maintenance, servicing and improvement of those assistive technology devices already in existence, an issue of great interest to colleges in my State. As such, among the eligible recipients for this research and development funding are institutions of higher education, including the nationally recognized University Centers for Excellence in Developmental Disabilities Education, Research, and Service and the engineering programs of such institutions. Regrettably, the compromise restricts the potential funding of this program to a small level that is not sufficient to solve the large and growing need for assistive technology devices, particularly as our population ages. This is a good start, but we must do more to help individuals with disabilities forge ahead and reach their ultimate potential, and so I hope we can grow this funding in the future.

There are other highlights as well. The bill increases the minimum allotment for each State assistive technology program to $410,000 which could mean an increase of nearly $110,000 in funding for Rhode Island as appropriations rise, and it repeals the sunset provision included in the Assistive Technology Act of 1998 so that States can continue to be eligible for funding. The bill also shifts emphasis toward getting assistive technology directly into the hands of individuals with disabilities through programs to provide

device demonstration, equipment loan, device reutilization/recycling and financing systems such as low-interest loans for the purchase or lease of assistive technology equipment.

I thank my colleagues, in particular, Chairman GREGG, Senator KENNEDY, Senator HARKIN, and their staffs, for their hard work in producing a bipartisan piece of legislation and moving it toward final passage.

A special thanks is also due to Regina Connor, the Project Director of the Rhode Island Assistive Technology Access Partnership, ATAP, which is Rhode Island's Assistive Technology Act Project, and Tony Antosh, Director of the Paul V. Sherlock Center on Disabilities, for their input and recommendations throughout the legislative process and ensuring that the act contained provisions important to Rhode Island assistive technology users, providers, and advocates.

This is significant legislation for people in Rhode Island and across the Nation, and I am pleased to support it. I look forward to the President quickly signing this bill into law which will hopefully signal a turnaround in his support for assistive technology funding to provide individuals with disabilities the increased support they need and deserve.

Mr. INHOFE. I ask unanimous consent that the substitute amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table en bloc, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3943) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The bill (H.R. 4278), as amended, was read the third time and passed.

HONORING THE LIFE AND WORK OF DUKE ELLINGTON

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 501.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 501) honoring the life and work of Duke Ellington, recognizing the 30th anniversary of the Duke Ellington School of the Arts, and supporting the annual Duke Ellington Jazz Festival.

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

Mr. INHOFE. I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and any statement relating to the matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 501) was agreed to.

STATE JUSTICE INSTITUTE REAUTHORIZATION ACT OF 2004

Mr. INHOFE. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 2714 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2714) to reauthorize the State Justice Institute.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I am pleased the Senate will take up the Leahy-Hatch amendment to reauthorize the highly successful Department of Justice Bulletproof Vest Partnership Grant Program. I thank the Chairman of the Senate Judiciary Committee, Senator HATCH, for joining me on this amendment.

This amendment contains the same legislative language as the Campbell-Leahy-Hatch Bulletproof Vest Partnership Grant Act of 2003, S. 764. The Bulletproof Vest Partnership Grant Act passed the Senate by unanimous consent on July 15, 2003, and has been awaiting consideration by the House of Representatives since then.

This measure marks the third time that I have had the privilege of teaming with my friend and colleague Senator CAMPBELL to work on the Bulletproof Vest Partnership Grant Program. We authored the Bulletproof Vest Grant Partnership Act of 1998, which responded to the tragic Carl Drega shootout in 1997 on the Vermont-New Hampshire border, in which two state troopers who did not have bulletproof vests were killed. The Federal officers who responded to the scenes of the shooting spree were equipped with life-saving body armor, but the state and local law enforcement officers lacked protective vests because of the cost.

Two years later, we successfully passed the Bulletproof Vest Partnership Grant Act of 2000, and I hope we will go 3-for-3 this time around. Senator CAMPBELL brings to our effort invaluable experience in this area and during his time in the Senate he has been a leader in the area of law enforcement. As a former deputy sheriff, he knows the dangers law enforcement officers face when out on patrol. I am pleased that we have been joined in this effort by 12 other Senate cosponsors, including Senator HATCH.

Our bipartisan legislation will save the lives of law enforcement officers across the country by providing more help to State and local law enforcement agencies to purchase body armor. Since its inception in 1999, this highly successful Department of Justice program has provided law enforcement officers in 16,000 jurisdictions Nationwide with nearly 350,000 new bulletproof vests. In Vermont, 60 municipalities have been fortunate to receive to receive funding for the purchase of 1,905 vests.

The Bulletproof Vest Partnership Grant Act of 2003 will further the success of the Bulletproof Vest Partnership Grant Program by re-authorizing the program through fiscal year 2007. Our legislation would continue the Federal-State partnership by authorizing up to $50 million per year for matching grants to State and local law enforcement agencies and Indian tribes at the Department of Justice to buy body armor.

We know that body armor saves lives, but the cost has put these vests out of the reach of many of the officers who need them. This program makes it more affordable for police departments of all sizes. Few things mean more to me than when I meet Vermont police officers and they tell me that the protective vests they wear were made possible because of this program. This is the least we should do for the officers on the front lines who put themselves in danger for us every day. I want to make sure that every police officer who needs a bulletproof vest gets one.

Mr. INHOFE. I ask unanimous consent that the Leahy-Hatch amendment, which is at the desk, be agreed to, the bill as amended be read a third time and passed, the motions to reconsider be laid upon the table with no intervening action or debate, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3944) was agreed to, as follows:

(Purpose: To extend the authorization of the Bulletproof Vest Partnership Grant Program)

On page 3, after line 5, add the following:

SEC. 4. LAW ENFORCEMENT ARMOR VESTS.

Section 1001(a)(23) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(23)) is amended by striking ''2004'' and inserting ''2007''.

The amendment was ordered to be engrossed and the bill was read the third time and passed.

ORDERS FOR FRIDAY, OCTOBER 1, 2004

Mr. INHOFE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Friday, October 1. I further ask unanimous consent that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of S. 2845, the intelligence reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDER—S. RES. 360

Mr. INHOFE. I ask unanimous consent the Rules Committee be discharged from further consideration of S. Res. 360, and it be placed directly on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. INHOFE. Mr. President, for the information of all Senators, tomorrow the Senate will resume consideration of the intelligence reform bill. As announced earlier, there will be no rollcall votes tomorrow. Senators will be here to offer and debate amendments, and any votes ordered on the amendments will be stacked to occur Monday afternoon. It is the intention of the leader to begin those rollcall votes on amendments as early as 3 p.m. on Monday, and Senators should make the appropriate scheduling considerations.

The majority leader will have more to say on this week's schedule tomorrow.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. INHOFE. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:33 p.m., adjourned until Friday, October 1, 2004, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 30, 2004:

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. BRUCE A. CARLSON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DENNIS R. LARSEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. WILLIAM M. FRASER III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. CARROL H. CHANDLER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. STEPHEN G. WOOD

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COLONEL ROBERT A KNAUFF

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, UNITED STATES CODE, SECTION 9335:

To be brigadier general

COL. DANA H. BORN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. MARSHALL K. SABOL

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. BENJAMIN S. GRIFFIN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE SURGEON GENERAL, UNITED STATES ARMY, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 3036:

To be lieutenant general

MAJ. GEN. KEVIN C. KILEY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JAMES J. LOVELACE, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES M. DUBIK

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT T. DAIL

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DAVID F. MELCHER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. R. STEVEN WHITCOMB

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. DAVID D. MCKIERNAN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. JAMES E. ARCHER
BRIG. GEN. STEVEN P. BEST
BRIG. GEN. PETER S. COOKE
BRIG. GEN. JACK C. STULTZ

To be brigadier general

COL. NORMAN H. ANDERSSON
COL. EDWARD L. ARNTSON II
COL. MARGRIT M. FARMER
COL. GLENN J. LESNIAK
COL. ADOLPH MCQUEEN, JR.
COL. JACK F. NEVIN
COL. MAYNARD J. SANDERS
COL. GREGORY A. SCHUMACHER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL KARL R. HORST

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. DANA D. BATEY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY VETERINARY CORPS UNDER TITLE 10, U.S.C., SECTIONS 3064 AND 3084:

To be brigadier general

COL. MICHAEL B. CATES

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES N. MATTIS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. EDWARD HANLON, JR.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF ADMIRAL IN THE UNITED STATES NAVY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601 AND TITLE 50, U.S.C., SECTION 2406:

To be director, naval nuclear propulsion program

To be admiral

VICE ADM. KIRKLAND H. DONALD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. CHARLES L. MUNNS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. JAMES K. MORAN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. JOSEPH A. SESTAK, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. MARK P. FITZGERALD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. GARY ROUGHEAD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. LEWIS W. CRENSHAW, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS DEPUTY JUDGE ADVOCATE GENERAL OF THE NAVY IN THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 5149:

To be rear admiral

CAPT. BRUCE E. MACDONALD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS JUDGE ADVOCATE GENERAL OF THE NAVY IN THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 5149:

To be rear admiral

REAR ADM. JAMES E. MCPHERSON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. NORTON C. JOERG

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPTAIN GERALD R. BEAMAN
CAPTAIN MARK S. BOENSEL
CAPTAIN JOHN H. BOWLING III
CAPTAIN MARK H. BUZBY
CAPTAIN DAN W. DAVENPORT
CAPTAIN WILLIAM E. GORTNEY
CAPTAIN MICHAEL R. GROOTHOUSEN
CAPTAIN VICTOR GUILLORY
CAPTAIN CECIL E. HANEY
CAPTAIN HARRY B. HARRIS, JR.
CAPTAIN JAMES M. HART
CAPTAIN RONALD H. HENDERSON, JR.
CAPTAIN JOSEPH D. KERNAN
CAPTAIN RAYMOND M. KLEIN
CAPTAIN CHARLES J. LEIDIG, JR.
CAPTAIN ARCHER M. MACY, JR.
CAPTAIN MICHAEL K. MAHON
CAPTAIN CHARLES W. MARTOGLIO
CAPTAIN WALTER M. SKINNER
CAPTAIN SCOTT R. VANBUSKIRK
CAPTAIN MICHAEL C. VITALE
CAPTAIN RICHARD B. WREN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. CHRISTINE S. HUNTER

AIR FORCE NOMINATION OF MARJORIE B. MEDINA.
AIR FORCE NOMINATION OF HENRY LEE EINSEL, JR.
AIR FORCE NOMINATION OF ROBERT L. MUNSON.
AIR FORCE NOMINATION OF JAMES MILLER.
AIR FORCE NOMINATIONS BEGINNING MICHAEL M. HARTING AND ENDING JOEL C. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.
AIR FORCE NOMINATION OF DANA J. NELSON.
AIR FORCE NOMINATION OF WILLIAM E. LINDSEY.
AIR FORCE NOMINATION OF MARTIN S. FASS.
AIR FORCE NOMINATION OF FRANK A. POSEY.
AIR FORCE NOMINATION OF TRACEY R. * ROCKENBACH.
AIR FORCE NOMINATIONS BEGINNING SHANNON D. * HAILES AND ENDING MICHAEL F. LAMB, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
AIR FORCE NOMINATIONS BEGINNING TOMMY D. * BOUIE AND ENDING JENNIFER L. * LUCE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
AIR FORCE NOMINATIONS BEGINNING NOEL D. MONTGOMERY AND ENDING ALEXANDER V. * SERVINO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.
AIR FORCE NOMINATIONS BEGINNING KATHLEEN HARRINGTON AND ENDING PAUL E. PIROG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 21, 2004.
AIR FORCE NOMINATION OF GEORGE J. KRAKIE.
AIR FORCE NOMINATIONS BEGINNING DAVID A. LUJAN AND ENDING MICHAEL C. SCHRAMM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 21, 2004.
AIR FORCE NOMINATIONS BEGINNING DOUGLAS A. HABERMAN AND ENDING MATTHEW S. WARNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 21, 2004.
AIR FORCE NOMINATION OF MARTIN J. TOWEY.
ARMY NOMINATIONS BEGINNING JUAN H. BANKS AND ENDING LISA N. YARBROUGH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.
ARMY NOMINATIONS BEGINNING MICHAEL J. BLACHURA AND ENDING RONALD P. WELCH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
ARMY NOMINATIONS BEGINNING SCOTT A. AYRES AND ENDING GERALD I. WALTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
ARMY NOMINATIONS BEGINNING MARK A. COSGROVE AND ENDING RONNIE J. WESTMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
ARMY NOMINATIONS BEGINNING STEVEN H. BULLOCK AND ENDING JOHN M. STANG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
ARMY NOMINATIONS BEGINNING MICHAEL N. ALBERTSON AND ENDING WILLIAM S. WOESSNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
ARMY NOMINATIONS BEGINNING JOHN W. AMBERG II AND ENDING RICHARD G. ZOLLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
ARMY NOMINATIONS BEGINNING GILBERT ADAMS AND ENDING SCOTT W. ZURSCHMIT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
ARMY NOMINATIONS BEGINNING CELETHIA M. ABNER AND ENDING CHERUB I. * WILLIAMSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

ARMY NOMINATIONS BEGINNING THOMAS L. * ADAMS, JR. AND ENDING KATHRYN M. * ZAMBONICUTTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
ARMY NOMINATION OF RAYMOND L. NAWOROL.
ARMY NOMINATION OF KEITH A. GEORGE.
ARMY NOMINATION OF CURITS L. BECK.
ARMY NOMINATION OF REX A. HARRISON.
ARMY NOMINATIONS BEGINNING KEVIN HAMMOND AND ENDING MICHAEL KNIPPEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.
ARMY NOMINATIONS BEGINNING JAIME B. * ANDERSON AND ENDING JOSEPH G. * WILLIAMSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.
ARMY NOMINATIONS BEGINNING JAMES R. ANDREWS AND ENDING SHANDA M. ZUGNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.
ARMY NOMINATIONS BEGINNING MICHAEL C. AARON AND ENDING X4130, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.
ARMY NOMINATIONS BEGINNING CHRISTOPHER W. * ABBOTT AND ENDING X3181, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.
ARMY NOMINATION OF JOHN R. PELOQUIN.
MARINE CORPS NOMINATION OF JOHN T. BROWER.
MARINE CORPS NOMINATION OF JOHN M. SESSOMS.
MARINE CORPS NOMINATION OF RANDY O. CARTER.
NAVY NOMINATIONS BEGINNING ANDREW M ARCHILA AND ENDING RICHARD G ZEBER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.
NAVY NOMINATIONS BEGINNING RAY A BAILEY AND ENDING DAVID A STROUD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.
NAVY NOMINATIONS BEGINNING RAYMOND ALEXANDER AND ENDING MARK A ZIEGLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.

NAVY NOMINATIONS BEGINNING STEVEN W ASHTON AND ENDING JASON D ZEDA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.
NAVY NOMINATIONS BEGINNING TAMMERA L ACKISS AND ENDING KATHLEEN L YUHAS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.
NAVY NOMINATIONS BEGINNING IK J AHN AND ENDING SARA B ZIMMER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.
NAVY NOMINATIONS BEGINNING KERRY L ABRAMSON AND ENDING ANDRU E WALL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.
NAVY NOMINATION OF ARTHUR B. SHORT.
NAVY NOMINATION OF SCOTT DRAYTON.
NAVY NOMINATION OF CIPRIANO PINEDA, JR.
NAVY NOMINATIONS BEGINNING MICHAEL P AMSTUTZ, JR. AND ENDING JAMES J WOJTOWICZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

NAVY NOMINATIONS BEGINNING JERRY L ALEXANDER AND ENDING LORI C WORKS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
NAVY NOMINATIONS BEGINNING PATRICK L BENNETT AND ENDING ERNEST C WOODWARD, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

NAVY NOMINATIONS BEGINNING CLAUDE W ARNOLD, JR. AND ENDING STEVEN M WENDELIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

NAVY NOMINATIONS BEGINNING CHRISTOPHER L BOWEN AND ENDING WILLIAM L WOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

NAVY NOMINATIONS BEGINNING JULIE M ALFIERI AND ENDING DONNA I YACOVONI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
NAVY NOMINATIONS BEGINNING MARIANIE O BALOLONG AND ENDING KAREN M WINGEART, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
NAVY NOMINATIONS BEGINNING THOMAS G ALFORD AND ENDING KENDAL T ZAMZOW, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
NAVY NOMINATIONS BEGINNING RYAN D AARON AND ENDING DAVID G ZOOK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.
NAVY NOMINATIONS BEGINNING GLENN A. JETT AND ENDING MATTHEW WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.
NAVY NOMINATIONS BEGINNING RICHARD S ADCOOK AND ENDING JEFFREY G ZELLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.
NAVY NOMINATION OF DANIEL C. RITENBURG.
NAVY NOMINATION OF DWAYNE BANKS.
NAVY NOMINATIONS BEGINNING BILLY R. DAVIS AND ENDING WILLIAM H. SPEAKS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 21, 2004.

EXTENSIONS OF REMARKS

CONGRATULATING THE MOSCONE FAMILY

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. LEVIN. Mr. Speaker, I rise to congratulate the Moscone family, as they receive the 2004 Donna Greco Issa ''Family of the Year'' Award from the March of Dimes. The Moscone Family continues the distinguished tradition of strong and passionate enthusiasm for family, friends, and community that has been a hallmark of this award.

Serafino Moscone was born in 1930; Iolanda Vitelli in 1934, both from the little town of Casalvieri, Italy. The two met as children and were married in 1949. Surrounded by family in Detroit, they began their new life together. Being blessed with two children; Antonio and Onorio, the young couple realized the value of family. Serafino worked three jobs to help provide a better life for his wife and sons. In the 1960s, he started a construction company that helped to instill a strong and devoted work ethic in their children. Today, due largely to the virtues of discipline and hard-work passed along to them by their parents, they have become one of Macomb County's leading developers and builders. Antonio and his wife Iolanda have three children. Sam, 25, graduated from Michigan State University with a Bachelor's degree in Finance. Michelle, 23, graduated from Wayne State with her Bachelor's degree in Science of Dance and Christina, 20, is on the Dean's List at Wayne State with plans of pursuing an Education degree. Onorio and his wife Carla have two children. Nino, 13, has started at De La Salle this fall and Michael, 10, is currently attending St. Lawrence School.

The families continually support numerous charities and foundations such as St. Joseph's Mercy of Macomb Hospital, Italian American Delegates, Children's Charities at Adios, and the Italian Chamber of Commerce. The Moscone's devotion to their community has a broad impact on individuals and organizations throughout the County.

Mr. Speaker, I ask my colleagues to join me in recognizing the Moscone family for their extraordinary commitment to their family, their friends, and their community. They are well deserving of the Donna Greco Issa Family of the Year Award.

RECOGNIZING 60TH ANNIVERSARY OF BATTLE OF PELELIU

SPEECH OF

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Ms. BORDALLO. Mr. Speaker, I am pleased to rise in support of this resolution, of which I am an original cosponsor. I too commend the gentleman from Arizona (Mr. FLAKE) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) for introducing this measure to bring appropriate Congressional recognition to the 60h Anniversary of the Battle of Peleliu.

The Battle of Peleliu was one of the fiercest fought in the Pacific theater during the greatest war of the last century. The fall of Japan's first line of defense in New Guinea, the Marshalls and the Marianas in 1944 precipitated the Allied advance to the strongholds in Japan's second defense line. Located within this line was the Palau island chain. U.S. Army General Douglas MacArthur, wanting to free Palau from enemy control before beginning operations in the Philippines, convinced President Franklin Roosevelt to approve his strategy to win the war in the Pacific. What followed would be a ferocious battle on the island of Peleliu and Angaur in the Palau island chain lasting more than two months and costing thousands of lives.

Earlier this month, we marked the 60th Anniversary of D-Day on Peleliu, on September 15th. On that day in 1944, the Marines of the 1st Marine Division landed on the western beaches of Peleliu to free the Palauan people from control by the Axis powers and to advance the cause of freedom against tyranny. The costs of the battle were high, the conflict intense. The Army's 81st Infantry Division was later called upon to relieve the 1st Marine Division. Of the nineteen Medals of Honor awarded to Marines of the 1st Division in the Pacific, eight were won on Peleliu. U.S. Forces endured over 10,000 casualties; over 12,000 Japanese soldiers were killed in action; and many innocent Palauan lives were caught and lost in the conflict.

Today, the Battle of Peleliu is recognized as one of World War II's most important campaigns. The Republic of Palau today is an independent nation that maintains a special relationship with the United States, embodied in a Compact of Free Association that is a testament to the shared principles of freedom and peace. This resolution is a strong and timely tribute to the veterans of the Battle of Peleliu. Passage of this resolution will bring appropriate Congressional recognition to the friendship between the Republic of Palau and the United States, and serve as an expression of support for the Department of the Interior's cooperative work with the people of Palau to protect the historic sites of the Peleliu Battlefield.

IN RECOGNITION OF MATA BURKE

HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. ROGERS of Alabama. Mr. Speaker, on Sept. 11, 2004, teens from around the Third District gathered the campus of Jacksonville State University to remember the events of 9/11, and to reflect on the impact of those events on their life today.

One of the speakers that day was Mata Burke, an eleventh grade student at the Donoho School in Anniston. In honor of Mata's words and in recognition of her gift for writing, I am placing her entire speech in the CONGRESSIONAL RECORD so that others may have the opportunity to hear her thoughts about that fateful day.

The text of her speech is as follows. Thank you, Mr. Speaker, for the House's attention to this important matter on this important day.

''WHO DID THIS TO US?''

(By Mata Burke)

''Now, as we are looking back and remembering the events of that day, it's hard to believe that three years have already gone by since it happened. The memory is still fresh in our minds, and perhaps, that is due to the fact that it's changed our everyday lives even now; whether it be by new security measures, constant bomb threats, or rising terror alerts. However, there is one thing that many people do tend to forget when remembering that day . . . and that is, ''why did it happen?'' ''What were the motives?'' and ''who exactly was involved?''

Most everyone knows that the September 11th attacks were directly linked to Al Qa'ida and Osama bin Laden. But many may not know what exactly Al Qai'da is and who Osama bin Laden is.

There are many people who think that the terrorists who attacked on September 11th were simply evil people who hated everything America and freedom stand for. But this is a generalization that overlooks many of the true motives behind the attacks. To really understand why these attacks happened, we must look into the past at the beginnings of Al Qai'da and at previous terrorist attacks across the world.

Al Qa'ida is an international terrorist network that was founded and led by Osama bin Laden. Al-Qa'ida first began to take shape after the 1979 Soviet invasion of Afghanistan. It was at that time that bin Laden and a Palestinian religious scholar, Abdullah Azzam, began recruiting, training, and financing thousands of mujahedeen, or holy warriors, from more than 50 different countries. Although they were originally fighting to rid Afghanistan of the Soviet invaders, bin Laden urged these holy warriors to continue their fight beyond Afghanistan. And thus, in 1988, he officially founded the terrorist group known as Al-Qa'ida, a name that is now familiar to people across the world.

Currently, there is not a specific place from which Al-Qai'da operates. Previous headquarters, such as Sudan and Afghanistan were removed by force, and now, it is thought that leaders are trying to regroup inside Pakistan, near the Afghan border. Still, it is important to realize that Al-Qa'ida operatives are not just located in the Middle East. They are spread throughout many countries across the world; including Italy, France, Spain, Germany, the United Kingdom and the United States. Despite the distances that separate them, all of the members of this terrorist organization share one major thing in common: Sunni Muslim fundamentalist views. In essence, there are three main objectives of the Al-Qa'ida Jihad,

● This ''bullet'' symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

or holy war based on these fundamentalist views. The first is to establish the complete rule of God on Earth. Second is to attain martyrdom in the cause of God, meaning to suffer and/or die in the hopes of doing God's will. And lastly is to purify Islam and get rid of what they see as moral corruption within their religion's followers. By doing this, they hope to unite all pure Muslims to live under one government. It is important to note that their goal is not to convert all non-believers to Islam, but rather they will not let the non-believers dominate, meaning they won't let non-Muslims push Muslim heritage out.

Even though Al-Qa'ida was originally formed to be a religious fundamentalist group wishing to protect and purify Islam, the motives for the terrorist attacks are not solely religious. Although religion is a major part of it, and indeed, has aided in the recruitment of terrorist group members, other motives lie deep within the history of U.S. involvement in the Middle East. In fact, Osama bin Laden, along with other Al-Qa'ida leaders have made direct statements explaining why they targeted the United States. Most of these statements refer to U.S. foreign policy in the Middle East; such as the stationing of U.S. troops in and around holy sites, and especially the American support of Israel. In October of 2001, Osama bin Laden made the following statement: ''We swore that America wouldn't live in security until we live it truly in Palestine. This showed the reality of America, which puts Israel's interest above its own people's interest. America won't get out of this crisis until it gets out of the Arabian Peninsula, and until it stops its support of Israel.'' A few years earlier, bin Laden had made another statement describing the oppression he saw of Muslims in Palestine: ''For over half a century, Muslims in Palestine have been slaughtered and assaulted and robbed of their honor and of their property. Their houses have been blasted, their crops destroyed. And the strange thing is that any act on their part to avenge themselves or to lift the injustice befalling them causes great agitation in the United Nations which hastens to call for an emergency meeting only to convict the victim and to censure the wronged and the tyrannized whose children have been killed and whose crops have been destroyed and whose farms have been pulverized.'' In these statements, bin Laden is clearly describing how he feels Israeli attacks in Palestine have caused great oppression of the Muslims living there. Thus, he sees the United States' support of Israel as a direct threat to Muslims and something he must retaliate against.

Although the United States is being targeted by Al-Qa'ida, it is only one of many different countries that the terrorists have attacked to further their cause. Osama bin Laden, maintains a strong grudge against Muslim countries in the Middle East that have allowed western infiltration and have begun buying into westernization. Countries such as Saudi Arabia, Egypt, Jordan, and Malaysia are seen as traitorous and abandoning their Muslim heritage.

The September 11th attacks were not the first terrorist acts against the United States. There have been many, many attacks against Americans in countries all around the world. There was an explosion in Riyadh, Saudi Arabia in 1995 that killed four Americans. There was an explosion in Al-Khobar that killed 19 Americans and wounded more than 400. There were attacks in east Africa, the destruction of the U.S.S. Cole, previous attempted World Trade Center bombings, and many more. Still, the September 11th attacks set a new standard. Never before had there been such a large scale terrorist attack on civilians on U.S. land. And although I have discussed with you the probable motives of the terrorists, there can never be justification for the events that occurred on 9/11.''

TRAIL RESPONSIBILITY AND ACCOUNTABILITY FOR THE IMPROVEMENT OF LANDS ACT

SPEECH OF

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. UDALL of Colorado. Mr. Speaker, I rise in support of this bill, and congratulate my Colorado colleague, Mr. TANCREDO, for his leadership in introducing it.

I joined as a cosponsor of this bill because I also want to improve the ability of the land-managing agencies to adequately enforce the rules that apply to uses of the Federal lands.

That is also why I also introduced a related bill—H.R. 751, the Responsible Off-road Vehicle Enforcement and Response Act, or ''ROVER.'' My bill is narrow. It deals only with enforcement of the regulations for use of vehicles on National Forest lands and public lands managed by BLM. This bill goes much further. In addition to the forests and BLM lands, it also applies to lands managed by the National Park Service and the refuges managed by the Fish and Wildlife Service. And it addresses the enforcement of all regulations, not just those related to use of vehicles.

In the Resources Committee, Mr. TANCREDO and I worked with Chairman POMBO, Ranking Member RAHALL, and other Members, to develop a substitute that included a number of improvements in the bill.

After the Resources Committee completed its work, the measure was reviewed by the Judiciary Committee, and the bill now before the House reflects changes made in that committee. It also includes the provisions of H.R. 1038, the Public Lands Fire Regulations Enforcement Act of 2003—also approved by the Resources and Judiciary Committees last year—which would increase the maximum fine for violations of regulations related to campfires. I also cosponsored that measure.

As I said, I do support the legislation before us. I hope the House will approve it, because legislation for better and more consistent enforcement of regulations is needed. However, we need to recognize that it is only one part of a bigger picture.

Even more than new legislation, it seems to me, the land-managing agencies need more resources—more money and more people—if we want them to do a better job.

As approved by the Resources Committee, H.R. 3247 would have helped with that, too, by allowing the agencies to use money from fines to help pay for some of the restoration work caused by violations of regulations, as well as for offsetting the administrative costs involved in enforcement of those regulations. Unfortunately, the Judiciary Committee evidently had some concerns about that part of the legislation, and so the bill now before us does not include those provisions.

This is something that I think should be addressed in the future, and I will seek to work with other Members to do that. Today, however, we can take an important step forward by passing this bill, and I urge the House to approve it.

HONORING DR. MILTON J. BOYD

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize Milton J. Boyd, Ph.D., Chair and Professor of Zoology in the Department of Biological Sciences at Humboldt State University, Arcata, California who is being honored for his contribution to one of our nation's most precious rights—participation in the political system. The Humboldt County Democratic Central Committee is recognizing Milt Boyd as ''Democrat of the Year, 2004.'' His commitment to the preservation of our political liberty is worthy of appreciation and recognition.

Professor Boyd, who received his Bachelor's Degree from the University of California at Berkeley in 1964 and his doctorate from the University of California at Davis in 1972, has taught over 3000 students during his 30 years at Humboldt State University. He has served as Faculty Advisor to student clubs for undergraduates and graduate students, including the Democrats of Humboldt State. He has been Faculty Advisor since 1992 to the Veteran's Office at the university and has assisted veterans in the Upward Bound program and the Math and Science Center, one of only two such programs funded in the United States.

During his tenure at Humboldt State University, Dr. Boyd has conducted numerous research projects involving the marine ecological resources of Northwestern California. The projects have broadly influenced marine resource management practices in Humboldt Bay and beyond.

Dr. Boyd has served two terms as HSU Chapter President of the California Faculty Association, has a statewide service role on the CFA Board of Directors and is a member of the CFA Political Action and Legislation Committee. He is a faculty representative on numerous University committees including the Academic Senate, the President's Advisory Search Committee and the Strategic Plan Steering Committee.

Milton Boyd served our nation in the United States Army. He was Commissioned 2nd Lieutenant, Field Artillery, May 1964 and was assigned to Battery ''B'' 1st Battalion, 6th Artillery Regiment, 1st Armored Division and Battalion Staff, 1964–1965. He served as Officer Instructor, U.S. Army Artillery School, Ft. Sill, Oklahoma, 1965–1966, and instructor for Field Artillery Officer Basic Course and Officer Candidate School. He was promoted to 1st Lieutenant in 1965 and completed his service in 1970.

He has served the community since 1983 on the Board of Directors of the Arcata Community Recycling Center. He has been a member of the Humboldt County Democratic Central Committee since 1994 and has demonstrated a special commitment to college age students by engaging their interest in the democratic process.

Mr. Speaker, it is appropriate at this time that we recognize Milton J. Boyd for his contributions and service to the people of our country.

IN HONOR AND IN MEMORY OF SERGEANT FOSTER L. HARRINGTON OF MOBILE, ALABAMA

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. BONNER. Mr. Speaker, just over one week ago, the First Congressional District of Alabama and indeed, our entire State and Nation, said goodbye to another casualty of the war in Iraq.

Marine Sergeant Foster L. Harrington, a native of New York and longtime resident of Fort Worth, Texas, moved to Mobile, Alabama 18 months ago. Twelve years ago, he had joined the Marine Corps Reserve and was most recently assigned to an elite reserve unit, the 3rd Force Reconnaissance Company, based in Mobile.

In June of this year, Sergeant Harrington's unit was activated and, following a pre-deployment stop in Camp Lejeune, North Carolina, was sent to Iraq. His company was stationed in the Al Anbar Province of Iraq and it was in that region that, on September 20, 2004, the unit came into contact with members of the Iraqi insurgency. During an exchange of fire between the company and the insurgents, Sergeant Harrington was killed.

During his career in the Marine Corps Reserve, Sergeant Harrington set a standard of excellence and displayed the qualities of discipline, devotion, and dedication to country that are the hallmarks of men and women throughout the long and distinguished history of the American military.

Sergeant Harrington also displayed an active and deep concern for his neighbors in the Mobile area, serving as a firefighter and medic with the Seven Hills Volunteer Fire Department prior to his deployment to Iraq. A telling story of his concern for others came just days before he died. Even with the difficult situation he and his comrades were facing in Iraq, Sergeant Harrington's first concern was for his many friends and colleagues in the Mobile area who were awaiting the arrival of Hurricane Ivan. For several days prior to his death, including the Sunday before the attack which claimed his life, Sergeant Harrington telephoned his fiancée to check on her and her family and made sure they were out of harm's way.

It is appropriate for us to pause and give thanks to God that there are still young men like Foster L. Harrington. His life and actions personified the very best America has to offer.

Mr. Speaker, as you can imagine, south Alabama is truly mourning the loss of this fine young man. I urge my colleagues to take a moment and pay tribute to Sergeant Foster L. Harrington and his selfless devotion to not only our country and the freedom we enjoy, but to a people who are but now in the infant stages of a new life—a new freedom—in their own land.

We should also remember his fiancée, Fran Poston, and his many friends and colleagues in Mobile, Alabama. Our prayer is that God will give them all the strength and courage that only He can provide to sustain them during the difficult days ahead.

TRIBUTE TO PANAGIOTIS TAKIS DADIOTIS

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Ms. DEGETTE. Mr. Speaker, I rise to honor the extraordinary life and notable accomplishments of Panagiotis Takis Dadiotis. This remarkable gentleman merits both our recognition and esteem as his community leadership and invaluable service have unproved the lives of our people.

Taki Dadiotis was born in Greece in the town of Aegion where, in his early years, he worked with his father, a fruit vendor. His story is not unlike those of other Greek Americans who came to this country with little more than their optimism and a desire to build a better life. Taki arrived in the United States in 1966 and first lived in Pensacola, Florida, where he sold toothbrushes door-to-door to raise the fare to travel to Denver. When he arrived, he worked three jobs at the same time—at Samsonite making suitcases, at King Soopers bagging groceries and tending bar at the Picadilly Restaurant—to build the nest egg needed to open his first restaurant with his brothers Sam and Pete. He became a proud family man, and he and his wife Vasiliki, raised two wonderful children, Jim and Theoni.

More restaurants followed including the well-known Greek Town Cafe on East Colfax. But Taki had a passion for politics and always found time to be involved in public life. His restaurant became a gathering place for elected officials and influential politicos as well as the site for countless State, local and national fundraising events. Taki had an irrepressible zest for life and no one was a stranger. He was open and genuine and possessed a refreshing lack of artifice. When people would try to put one over on him, he would simply mention that although he lacked a formal higher education, he did, in fact, graduate from the ''University of Colfax'' and they all got the drift.

Taki was immensely proud of his Greek heritage and preserving the ideals and traditions of Hellenism had great meaning for him. He understood that his native Hellas and his adopted homeland shared common values and that the greatness of America flowed from our fidelity to the Hellenic precept that government derives its authority from the people. Becoming a citizen of the United States was one of the greatest honors of Taki's life. His son Jim recalled how he instilled in his children a sense of civic responsibility and the fundamental importance of voting. Taki once remarked that America stands for the fair treatment of all people, and that providing the opportunity to be successful makes our country better and stronger. Taki loved this country and he wanted to participate in the American experience. He wanted to help make our country better because it gave him the opportunity to live the American Dream.

But Taki never forgot who he was or where he came from. And although he achieved financial success, he always wanted to help, not only Greek immigrants, but all those who were disadvantaged. He didn't want people that were somehow limited or didn't have access to civic leaders and community resources to be forgotten, left out or lost in the shuffle. Taki not only had a big heart, but he was well-grounded and possessed a clear sense of what mattered.

Taki Dadiotis loved his family, his friends his country, his faith and lived a life that is rich in consequence. Truly, we are all diminished by the passing of this remarkable person. There is an old Greek saying that ''the passion for freedom never dies.'' And while Taki has left our ranks, his passion for the American ideal endures in us. Please join me in paying tribute to the life of Panagiotis Takis Dadiotis, a distinguished citizen. It is the values, leadership and commitment he exhibited during his life that serves to build a better future for all Americans.

APPOINTMENT OF CONFEREES ON H.R. 4200, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

SPEECH OF

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. STEARNS. Mr. Speaker, I rise today in opposition to the Motion to Instruct Conferees on the FY05 National Defense Authorization Act.

There are many reasons to oppose this Motion.

First, the argument could certainly be made that ''hate crimes'' do not belong on a National Defense Authorization bill. This is incredibly important legislation, and it does not deserve to get bogged down over such a controversial and non-germane provision.

I also oppose the notion of ''hate crimes'' in general, especially at the federal level. The fact of the matter is that a crime is a crime no matter what motivates it. If two men are brutally murdered, one for his race and the other for his money, are we telling the latter's family that their father's death, or their husband's death, or their son's death, is somehow worth less in the eyes of the law?

I would also contend that the very concept of ''hate crimes'' is divisive and tends to Balkanize America. During the Civil Rights movement, black Americans strove to be treated the same as white Americans. Theirs was a noble cause. Yet ''hate crimes'' betray the cause of those who fought against segregation by emphasizing our differences, rather than our common concerns.

I am also concerned that if we have laws which punish more severely offenders who are motivated by certain beliefs, it increases the risk that we will try to criminalize the actual beliefs themselves.

There is no need for ''hate crime'' legislation. Federal ''hate crimes'' prosecute property crimes, assault and battery and murder against the special victims. Yet all of these underlying offenses are already illegal in all 50 states and they are already prosecuted by the states with great effectiveness. I am not aware of any of these types of offenses being inadequately investigated or negligently prosecuted. And let's face it: few criminals are likely to be deterred by an additional penalty for a crime that is already unlawful.

Another reason why I oppose federal hate crimes in general and this Motion specifically is because the prosecution of crimes has

largely always been an issue left to the states. The continued federalization of criminal law requires a tremendous expansion in the size and scope of Federal law enforcement, Federal prosecutors, and frankly, Federal power. For too long, Congress has used the Constitution's Commerce Clause to expand the Federal government's reach in what was traditionally the jurisdiction of the states. However, the U.S. Supreme Court recently struck down two federal statutes in U.S. v. Lopez (1995) and U.S. v. Morrison (2000) because they violated our traditional constitutional divisions of authority. I would not be surprised if the Court one day declared unconstitutional other far-reaching Federal crime measures, including Federal ''hate crimes.''

There is another constitutional problem with giving ''sexual orientation'' special treatment. Current characteristics which are classified as hate crimes under federal law include race, ethnicity, sex, national origin, religion, and disability. All of these characteristics—except religion—are what the Supreme Court has called ''immutable.'' That is, if a person is black, or a woman, or from Pakistan, or paralyzed from the waist down, it is not of their choice. It is beyond their control, they cannot change. Therefore, if their characteristic is immutable it cannot, for lack of a better description, be held against them.

Now, good people can disagree about this issue, but the fact remains that homosexuality is not necessarily a trait with which someone is born. In other words, this type of ''sexual orientation'' is not immutable, but to a large degree it is chosen. The Supreme Court has certainly never considered ''sexual orientation'' to be an immutable characteristic. Why should we?

Mr. Speaker, I believe that violent crimes against any American are despicable. They should be punished swiftly and severely, to the fullest extent of the law. But we should not give special treatment to certain victims, we should not penalize citizens for their beliefs, and we should not federalize ''hate crimes.''

I urge my colleagues to vote against this Motion.

RECOGNIZING QUENTIN TEMPLETON FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Quentin Templeton of Kearney, Missouri, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 397, and in earning the most prestigious award of Eagle Scout. A recognition ceremony will be held in honor of Quentin on October 9th at Community Coventry Church in Kearney.

Quentin has been very active with his troop, participating in many scout activities. Over the many years Quentin has been involved with scouting, he has not only earned numerous merit badges, but the respect of his family, peers, and community.

Mr. Speaker, I proudly ask you to join me in commending Quentin Templeton for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

CONGRATULATING BOB MILEWSKI

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. LEVIN. Mr. Speaker, I rise to congratulate Mr. Bob Milewski, as he receives the 2004 Alexander Macomb ''Man of the Year'' Award from the March of Dimes.

Bob Milewski's business card reads: President and CEO, Mount Clemens General Hospital. Yet his influence stretches even further beyond the hospital campus, and his title doesn't capture his devotion to Macomb County and its citizens. For Bob Milewski, his vocation is an opportunity to serve the community he loves.

Bob Milewski was born and raised in Center Line, Michigan. He married his high school sweetheart, Nancy, and they have been married for 33 years. All three of their children, Amy, Jeff and Amanda, were born at Mount Clemens General. They are the proud grandparents of Gavin, Garrett, and Grant.

Bob Milewski has worked at both Children's Hospital of Michigan and Beaumont Hospital in Royal Oak. He came to Mount Clemens General as Chief Operating Office (COO) in September, 1993 and was promoted to Chief Executive Officer (CEO) in September, 1997.

Since 1997, Bob Milewski has strongly and enthusiastically led Mount Clemens General, which has seen a 50 percent growth in inpatient admissions and 300 percent growth in outpatient activity during his tenure. Of course, Mr. Milewski would say that those numbers only have meaning if you know the people behind the statistics: his neighbors, church members, professionals, associates, friends and family who have long trusted Mount Clemens General for their healthcare.

Community linkage is of the utmost importance to Bob Milewski. Not only does he believe the hospital should offer outstanding healthcare to its residents, but that it should support the community by having its staff involved in community organizations. Mr. Milewski himself is heavily involved in many local organizations, including Leadership Macomb, Mount Clemens Lions Club, Rockpointe Community Church, Selfridge Air National Guard Base Council, Greater Detroit Area Health Council, Michigan Healthcare Executive Group and Associates, Michigan Health and Hospital Association, American College of Healthcare Executives, and the American Osteopathic Association.

Mr. Speaker, I ask my colleagues to join me in recognizing a terrific individual, an outstanding leader, and a worthy recipient of this annual Macomb County recognition by the March of Dimes.

BROWN TREE SNAKE CONTROL AND ERADICATION ACT OF 2004

SPEECH OF

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Ms. BORDALLO. Mr. Speaker, H.R. 3479 was introduced to provide a more coordinated and consistent approach in dealing with the brown tree snake, which has decimated native bird populations in Guam since its accidental introduction following World War II. Today, the brown tree snake poses a direct threat to the environment and economies of the Mariana Islands and the Hawaiian Islands, and to a lesser extent, Coastal California, the Gulf States, and the Caribbean. If not effectively contained in Guam, the brown tree snake could prove to be devastating should it make its way further outside its native and historic range. The brown tree snake, whose scientific name is Boiga irregularis, is especially prone to tropical climate and with no natural predators can virtually destroy an ecosystem. This invasive species has already irrevocably harmed Guam's environment.

With the level of military and commercial air and sea traffic between Guam and points in the Pacific Region, including Saipan and Honolulu, increasing on an almost daily basis, the need for effective control of the brown tree snake correspondingly rises. For over a decade, a Federal partnership has existed with the Government of Guam and the State of Hawaii in preventing the brown tree snake's transport off Guam. This partnership emerged following the introduction of the first legislation in Congress dealing with the brown tree snake. That measure was H.R. 4804 in the 101st Congress, introduced by former Congresswoman Patricia Saiki (Hawaii) and former Congressman Ben Blaz (Guam), whose purpose was eventually incorporated into and enacted as part of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990. H.R. 3479 builds upon this law by providing more programmatic authorization and direction for the Federal elements of the overall partnership to combat the brown tree snake.

The legislation provides funding authority for eleven specific authorized activities relating to control, interdiction, research and eradication. It authorizes appropriations for five offices and agencies under the Department of Agriculture and the Department of the Interior to support and coordinate the different elements of this overall work. Apart from these two cabinet level agencies, it is expected that strong support and cooperation will continue to come from the Department of Defense, who has a major stake in reducing brown tree snake populations on military installations in Guam and in preventing the accidental or incidental transport of the brown tree snake off Guam.

The Animal and Plant Health Inspection Service (APHIS) has been at the center of this partnership, with its Wildlife Services operating a program to screen outbound cargo at the airport and seaport for brown tree snakes. This partnership has proven effective at interdicting snakes, although stands to gain much more Federal backing and resources in order to ultimately succeed in its mission. In recent years the program has struggled to keep up

with the pace of outbound flights and surface cargo. H.R. 3479 would provide for specific authorization levels to maintain strong and consistent Federal funding for this program. From this perspective, I believe H.R. 3479 is a cost-saving measure for the Federal Government in the long run. If our guard is let down, and the program becomes inevitably unable to keep up with the demand of increased inspections, the value of all the inspections conducted to date and the value of all Federal resources invested to date lessens and becomes jeopardized in its entirety. Should the snake ever become established in Hawaii, the responsibility and need to control for it in yet another location would ensue, causing the expenditure of additional Federal funds. The costs of the adverse impact to the economy of any local community hit by the introduction of the brown tree snake would be beyond estimating and difficult to bear.

Apart from the concern over consistent and adequate year-to-year Federal funding for interdiction, is the larger, more long-term concern about controlling for the snake to restore and protect Guam's environment. To date, efforts have largely focused, with limited and inconsistent resources, on interdiction. I believe more can and should be devoted towards protecting Guam's environment and native species. I believe brown tree snake control work carried out on Guam should be tied to, consistent with, and made an integral component of species recovery efforts. In this regard, I am pleased H.R. 3479 provides a specific authorization of appropriations for the Fish and Wildlife Service to participate in this partnership. I would also note that this legislation provides for research authorization with the long-term goal of eradication and with the near-term focus on large-scale reduction.

H.R. 3479 also provides important direction and purpose for the Brown Tree Snake Technical Working Group that has convened over the years to provide a forum for the partners across the levels of government to coordinate their efforts. The legislation outlines specific duties and activities for the working group, including the evaluation of Federal activity and funding. It is hoped that the working group's evaluation and reporting would provide Congress with authoritative and useful information to consider in the appropriations process. Furthermore, I believe the five-year authorization period contained within the legislation can yield a process by which we are able to evaluate the progress of the work. Without the direction and authorization embodied in this legislation, I am concerned that the Federal Government will forever be engaged in an effort to prevent the brown tree snake from leaving Guam, and will likely prove unsuccessful in the long run. Without this legislation, I am also concerned that future efforts will be focused on interdiction and interdiction alone at the expense of Guam's environmental and economic interests.

Although, not all provisions of the bill as introduced have been retained in the version before the House today, I am pleased that we have been able to craft a product that I believe will encourage more direction, coordination and consistency in year-to-year funding for brown tree snake interdiction, control, research, and eradication efforts. I look forward to continuing to work with the leadership of the committees with jurisdiction to enact this legislation.

IN RECOGNITION OF SABRINA USSERY

HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. ROGERS of Alabama. Mr. Speaker, on September 11, 2004, teens from around the Third District gathered on the campus of Jacksonville State University to remember the events of 9/11, and to reflect on the impact of those events on their life today.

One of the speakers that day was Sabrina Ussery, a twelfth grade student at Lanett High School in Lanett, Alabama. In honor of her words and in recognition of her gift for writing, I am placing her entire speech in the CONGRESSIONAL RECORD so that others may have the opportunity to hear her thoughts about that fateful day.

The text of her speech is as follows. Thank you, Mr. Speaker, for the House's attention to this important matter on this important day.

ARMY JUNIOR ROTC: MOTIVATING YOUNG PEOPLE TO BE BETTER CITIZENS

As freshmen, we entered Lanett's JROTC program without knowledge of how to serve ourselves, let alone our country. Also, being fourteen at the time of the 9/11 occurrences, fear, above all other responses, was the primary expression brought forth by the announcement made over our intercom that morning. Terrified as we were, we looked to our Army Instructors for answers. This is where our lives and experiences as well-rounded cadets began.

The core curriculum of the Army JROTC program at Lanett High School emphasizes the importance of a citizen's involvement in today's world at the local, state, and national levels. This curriculum teaches adolescents the responsibilities of being a citizen and offers opportunities for them to experience, first handedly, the reward of being informed. In an attempt to keep us up to date with our current events, classroom debates and/or discussions were held both in and out of class. These discussions sparked interests and opinions in our young minds as we began to ponder the idea of being, for the first time, independent minded individuals.

Our Army Instructors also encouraged us on a daily basis to volunteer and take part in community events: Color guard presentations, dedications of the flag, memorial services, etc. At this point, the instructors understood something we didn't. In our minds, the ideals and practices of patriotism and participation were nothing more than routines. It wasn't until the morning of 9/11 that we began to realize the purpose, meaning, and emotion behind being a cadet.

It was 9:52 A.M. when the intercom came on, and we expected a fellow cadet to recite the pledge as a part of our daily routine. To our surprise, it was our librarian reporting to the school the events of the morning. Out of confusion, our eyes fell upon Major McQueen, our Senior Army Instructor. Behind his common readjustment of his glasses, we saw tears beginning to roll down his cheeks. He then turned towards our classroom flag and saluted.

The temperature seemed to suddenly drop, and we were all frightened. As we stood and watched our hero, our teacher, our friend cry over such an announcement, we realized the importance and devastation behind the occurrences of the morning. We knew something wasn't right. It was then that maturity fell upon our shoulders.

As time passed, those students who were cadets during the time of 9/11 attacks became key leaders throughout the school and community in both deed and speech.

Now, not only do they hold their heads higher and walk with a prouder step, the Panther Battalion as a whole has taken it upon itself to become more involved in the community. We are now co-volunteers with current Junior Achievement participants in teaching elementary students the importance of their family, community, country, and world. In addition, the JROTC program at Lanett High has had the School Board of Education for Chambers County pass a mandatory requirement for incoming freshmen to complete and pass a minimum of one semester of the class. This has and will continue to aid in the raising up of well informed, active citizens in tomorrow's America.

THE CADET CREED:

I am an Army Junior ROTC cadet.

I will always conduct myself to bring credit to my family, country, school, and the corps of cadets.

I am loyal and patriotic. I am the future of the United States of America.

I do not lie, cheat, or steal and will always be held accountable for my actions and deeds.

I will always practice good citizenship and patriotism.

I will work hard to improve my mind and strengthen my body.

I will seek the mantle of leadership and stand prepared to uphold the Constitution and the American way of life.

May God grant me the strength to always live by this creed.''

MONTANA WATER CONTRACTS EXTENSION ACT OF 2004

SPEECH OF

HON. DENNIS R. REHBERG

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. REHBERG. Mr. Speaker, today the House will consider H.R. 5009, legislation to extend water service contracts between the United States and specific water users in Montana.

The bill is non-controversial and the House Resources Committee unanimously passed H.R. 5009 on September 22, 2004.

My legislation affects 5 water entities in central and southwest Montana, including the City of Helena and 4 specific irrigation contractors. It permits the Bureau of Reclamation and these local water entities to extend their existing long-term water service contracts for up to another 2 years, so that the parties may negotiate new long-term contracts.

This bill is a legislative fix to a bureaucratic situation. Most of the contracts addressed in my legislation are due to expire on December 31, 2004. Contract renewal negotiations between these local water districts and the Bureau of Reclamation have been delayed by Missouri River Endangered Species Act studies and other issues. Without this legislation, the water service contracts would expire at the end of the year and the local entities would lose significant water service. The contract extensions will maintain the current water supply for the specified areas under the current terms and conditions during the renegotiation process.

I urge my colleagues to support this important measure and vote in favor of maintaining water supply in Montana.

HONORING THE LIFE OF PETTY OFFICER 3RD CLASS NATHAN BRUCKENTHAL

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. ISRAEL. Mr. Speaker, I rise today to honor the life of Nathan B. Bruckenthal, a life that he gave for his country. P03 Bruckenthal, U.S. Coast Guard, was killed in action at the Khawr Al Amay Oil Terminal off the coast of Iraq on 24 April 2004 in a terrorist-suicide bombing. DC3 Bruckenthal became the first Coast Guardsman to lose his life in combat since Vietnam.

P03 Bruckenthal was born on July 17, 1979. Growing up in Stony Brook, Long Island, he had a strong sense of service from his earliest years. A member of the Junior ROTC while in high school and later a volunteer firefighter in Ridgefield, Connecticut, Bruckenthal later returned home to Long Island where he joined the Coast Guard.

Bruckenthal went on to serve at Coast Guard stations in Montauk, New York; Yorktown, Pennsylvania; and Neah Bay, Washington. Having volunteered to become a damage control officer, Bruckenthal made an even greater commitment to continued service by reenlisting, a decision he made with his new wife Pattie whom he had met while serving in Washington. Bruckenthal was subsequently selected for the elite Coast Guard tactical law enforcement program and assigned to TACLET South, housed at the Coast Guard's Miami Air Station.

Lauded for his leadership by his commanding officers and continually decorated for his achievements, P03 Bruckenthal was selected for deployment to Iraq where he would work not only with the Coast Guard but with the Navy and numerous foreign services. His dedication to service was needed in what would soon be a war zone; his leadership was needed to make working with so many disparate services a success. P03 Bruckenthal went on to work in and around the critical Iraqi port of Um Qasar before being redeployed to the United States. But one tour of duty was not enough for a man who always sought greater service. He volunteered to go back to Iraq.

While serving on his second tour, Bruckenthal learned his wife was carrying his unborn child. Still he soldiered on. While patrolling in the Persian Gulf and training two Navy seamen on intercept operations, P03 Bruckenthal noticed a suspicious vessel. When the vessel would not heed his commands, Bruckenthal moved with his crew to intercept the vessel. The vessel exploded and P03 Bruckenthal and his two crewmates were killed. Their selfless action saved the U.S.S. *Firebolt* and its sailors as well as the off shore oil platform and terminal at Khawr Al Amaya. P03 Nathan Bruckenthal had now made the ultimate sacrifice for his country: he gave his life.

P03 Bruckenthal had been well decorated during his career, earning the USCG Marksmanship Ribbon, the Unit Commendation Award, the Coast Guard Sea Service Ribbon, National Defense Service Medal, the Coast Guard Merit Team Commendation and the Combat Action Medal. He will not know of his final two decorations but they speak directly to his characteristics of selflessness, leadership and sacrifice. For his heroic intercept of the suicide vessel, P03 Bruckenthal was posthumously awarded the Bronze Star with Valor and the Purple Heart.

Words do not easily capture the greatness of a young man like Nathan Bruckenthal nor can they do justice to his sacrifice or to the deep loss of his family. However, it is our duty to ensure that the legacy of this great American, like that of many who have fallen with him, is known and honored. Tom Brokaw wrote not so long ago about what he termed ''The Greatest Generation.'' He illustrated that they were people who knew there was a need for service and then quietly answered that call. They were people who sacrificed so much but complained very little. They were people who labored far away while penning letters to loved ones at home speaking only of happiness, their love and their future. Nathan Bruckenthal may not have served with the men and women who are part of that WWII generation, but I can tell you he would be right at home with them.

PERSONAL EXPLANATION

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. SHAYS. Mr. Speaker, on September 28, inclement weather delayed the train I was riding back to Washington and, therefore, I missed three recorded votes.

I take my voting responsibility very seriously and would like the CONGRESSIONAL RECORD to reflect that, had I been present, I would have voted ''yes'' on recorded vote number 473, ''yes'' on recorded vote 474, and ''yes'' on recorded vote 475.

BHOPAL RESOLUTION

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. PALLONE. Mr. Speaker, I introduced a resolution today in recognition of the 20th anniversary of the Union Carbide Corporation gas leak that took place in Bhopal, India, in December 2004. This 1984 Bhopal Gas Leak Disaster is widely regarded as the worst peacetime environmental catastrophe in world history, and this important resolution expresses the commitment of the United States Congress to work with the Government of India and others to ensure that Union Carbide provides environmental and medical rehabilitation in Bhopal and is held responsible for its actions.

On the night of December 2, 1984, 27 tons of poisonous gas including methyl isocyanate leaked from a storage tank at the Union Carbide Corporation's pesticide plant in Bhopal and quickly spread to the surrounding residential areas. Official estimates indicate a death toll of 3,000 lives in the aftermath of the disaster, with unofficial estimates putting the toll much higher at 8,000. To date, the death toll has climbed to more than 20,000 lives.

Although it is now 20 years since the disaster, approximately 10–30 people continue to die every month in Bhopal from toxic exposure and 150,000 people continue to suffer long-term health consequences from the disaster. The effects of the toxic gases also appear to be harming the next generation, as more overwhelming evidence is surfacing that points to higher incidence of health effects and birth-defects among children born to gas-affected people.

A host of international organizations and independent investigators have concluded that Union Carbide's inadequate technology, double standards in safety and emergency-preparedness compounded by a reckless cost-cutting drive at the plant were the principal causes of the disaster. Based on these investigations and other evidence, the authorities in India brought criminal charges against Union Carbide, its Indian subsidiary as well as local managers in 1987 for criminal negligence and reckless indifference leading to death.

In 1989, Union Carbide negotiated a settlement of $470 million with the Indian government that was based on inaccurate statistics about the scale and magnitude of the disaster in addition to being widely condemned by the media and responsible jurists in India as insufficient, even when compared to compensation awards provided for under Indian law. The Supreme Court of India in its judicial review of the settlement in October 1991 held that the criminal charges could not be overturned or dismissed based on the civil settlement and directed that the criminal prosecution against Union Carbide and the Indian accused must proceed in the courts of India.

When Union Carbide was served with a summons in the criminal case by the Bhopal District Court in 1992, and a notice to appear for trial was published in the Washington Post, Union Carbide's spokesmen responded with a public statement that the company was not subject to the jurisdiction of India's courts in disregard of universally accepted international law regarding criminal jurisdiction acknowledged by both the United States and India. Based on its refusal to appear to face criminal charges against it, the Bhopal District Court issued non-bailable arrest warrants for Union Carbide, ordered that its remaining properties in India be attached to secure its appearance and declared that the company was a ''proclaimed absconder'' or fugitive from justice.

Union Carbide has recently become a wholly-owned subsidiary of The Dow Chemical Corporation, which made the decision to acquire the company with full knowledge, according to its own public statements, of the criminal charges pending against it and Union Carbide's status as an absconder or fugitive from justice. Despite repeated public requests and protests around the world, Dow Chemical has refused to make its new subsidiary appear before the Bhopal District Court to face the criminal charges pending against it for the disaster.

Like Union Carbide before it, Dow Chemical has, to date, continued to refuse to release all scientific research on the leaked gas, claiming that this information constitutes a commercial ''trade secret''. Like Union Carbide before it, Dow Chemical has also continued to refuse to release all of its own medical research on the toxicology of the leaked chemicals and gases to date. The lack of information on the gas has not only hindered the study of the long-

term health and medical effects of exposure, but has left doctors with few options besides symptomatic treatment of the hundreds of thousands of gas-affected individuals and children. The devastating health effects of the gas, the birth defects of their children and inability to work because of illness have forced many Bhopali families in desperate need of medical help into insurmountable debt.

Since 1999, at least three independent environmental surveys, including one conducted by state authorities in India, have shown that the former Union Carbide plant has badly polluted the soil and groundwater aquifer beneath it resulting in severe contamination of the drinking water supply of as many as 20,000 people living in residential colonies near the plant. One study found the presence of a large number of highly toxic pollutants in drinking water samples tested by the University of Exeter in the U.K. that were matched with chemicals found in soil samples from the Bhopal plant, including one carcinogenic chemical whose presence in the drinking water exceeded by 1,705 times the maximum limit allowed by the World Health Organization.

Another environmental survey was able to trace chemicals from the former Union Carbide plant in the breast milk of mothers living in the residential areas in the vicinity of the badly polluted site, which continues to leach pollutants into the groundwater aquifer to date. The land for the plant was leased from the State of Madhya Pradesh in India which stipulated that, upon termination, the land would be returned to the State in the condition that it was first leased and suitable for the use prescribed by the zoning regulations. The State discovered that clean-up of the site until 1998 had been insufficient leaving thousands of metric tons of toxic wastes, chemical by-products, effluents, and other hazardous materials both above-ground on the premises of the factory and below ground in burial pits and landfills, all of which posed a grave threat to the surrounding population.

At least 10 residential areas in the vicinity of the former Union Carbide plant were found to have severely polluted drinking water according to these environmental studies and no substantive effort has been undertaken for environmental remediation of the area leaving water that has high levels of mercury, dichlorobenzenes, chloroform, carbon tetrachloride, and other pollutants, toxins, and heavy metals. Soil samples from the area have found abnormal amounts of lead, nickel, copper, chromium, hexachlorocyclohexane, and chlorobenzenes. Tainted water and the generally toxic living environments have lead to premature cancer, deformities, chromosomal aberrations, and other disorders for Bhopali children.

There is a ''polluter pays'' principle enshrined in the domestic laws of both India and the United States as well as both domestic and international law which states that the polluter rather than the public agencies or taxpayers should be held responsible for its environmental pollution in its entirety. International trade and ethical practices compel Dow Chemical to treat this matter very seriously and ensure that equitable treatment be afforded to the victims and their progeny.

Mr. Speaker, India is the largest democratic country in the world and enjoys a close and mutual friendship with the United States based on common values and common interests, and as a result, our countries should come together to recognize the gravity of the Bhopal disaster and the ongoing environmental problems in Bhopal caused by Union Carbide's policies and practices.

I encourage my colleagues in the U.S. Congress to support this resolution and commit to working together with the Indian government, Dow Chemical Corporation, and the victims to ensure that Union Carbide provides complete medical, social, and economic rehabilitation to the victims of the disaster. In addition, we should work together to ensure that Union Carbide undertakes a complete environmental remediation that restores the badly polluted plant site affected by this disaster to a habitable condition and fully remediates the drinking water supply of affected residential communities. Lastly, we need to ensure that Union Carbide appears before the Bhopal District Court for prosecution on the criminal charges pending against it there, in accordance with principles of international law regarding criminal jurisdiction accepted by the world community including India and the United States.

HONORING IRVING B. HARRIS

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. EMANUEL. Mr. Speaker, I rise today to mark the passing of one of Chicago's greatest philanthropists and most successful businessmen, Irving B. Harris. Since the creation of his first nonprofit foundation, Irving Harris' generosity touched the lives of the people, and particularly the children, of Chicago for nearly 60 years.

As co-owners of Toni Home Permanent Company, Irving Harris and his brother Neison were pioneers in the at-home hair wave craze of the mid–20th century. By 1948, the Harris' company had become so successful as to sell it to Gillette for $20 million. Irving went on to become the chairman of Pittway Corporation, a multi-billion dollar corporation his family ran until 2000.

But as Irving's wife Joan said ''He liked business, and he was good at it. But I think in the end, what really yanked his chain was his work with the not-for-profits.'' Chicago's cultural and education scene was forever changed by this love.

During Irving Harris' lifetime, his foundations and generosity led to the creation and development of several noteworthy Chicago institutions charged with early childhood development. These include the Erikson Institute for Advanced Study in Child Development, the Ounce of Prevention Fund, Illinois' first public-private partnership to develop and monitor programs aimed at preventing family dysfunction, and the Beethoven project, which provides assistance and help to at-risk families in Chicago's most disadvantaged neighborhoods.

Irving Harris was also very committed during his lifetime to higher education. The University of Chicago opened the doors on the Irving B. Harris School of Public Policy in 1988, committed to shaping and understanding public life by conducting policy relevant research and preparing talented individuals to become leaders and agents of social change.

Right until the end of his life, Irving Harris left his mark on the city he loved. A Centerpiece of Chicago's grand new Millennium Park is the Joan W. and Irving B. Harris Music and Dance Theater, which was made possible by Irving's tremendous donation of $39 million toward the $52 million cost.

Mr. Speaker, on behalf of the people of Chicago, I am privileged to honor the memory of Irving B. Harris, one of Chicago's greatest humanitarians. My family and I would like to express our deepest condolences to Irving's wife Joan, his sister, June Barrows, his 6 children, 10 grandchildren, and 26 great grandchildren.

FOURTH ANNIVERSARY OF THE PALESTINIAN INTIFADA

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. CROWLEY. Mr. Speaker, on the fourth anniversary of the Palestinian Intifada, I would like to send my condolences to all the families that have lost a loved one or suffered from a terrorist attack.

These have been a long four years of violence since the Palestinian Intifada began on September 28, 2000. Today, on the fourth anniversary of this terrorist war waged against our ally Israel, I believe it is important for us all to reflect on these past 4 years.

What has this terrorist war achieved—the answer to that question is only blood shed.

Since the start of the Intifada, 940 innocent Israelis have been murdered and thousands more injured by terrorist attacks. Even with all the blood on the hands of these terrorists, they have been unable to come close to achieving their goal of destroying the state of Israel or creating a Palestinian state. The only thing these terrorists have achieved is the murder of so many and causing pain to their own people.

A state for the Palestinian people will never be achieved while terrorists continue to strike Israel. Whether they come from territory controlled by the Palestinian Authority, through Lebanon, Syria, or Iran peace can never be achieved while extremists wage this terrorist war on Israel.

It is time for the governments of the Middle East to step up and work with the Palestinian leadership to end all support for terrorism and assist a Palestinian government that can provide the security that is needed to realize their dream of a state. The first step toward achieving this goal is for Palestinian Prime Minister Ahmed Qurie to crack down on terrorists who continue to strike Israel. To do this Yassir Arafat must be removed from any position of power and control of the security forces must be centralized.

Mr. Speaker, this anniversary is something I hope we do not have to recognize at this time next year. I hope that peace can be achieved but until then we must continue our support of Israel and her fight against these extremist elements.

A TRIBUTE TO THE LIFE OF JAMES O. PAGE

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. WELDON of Pennsylvania. Mr. Speaker, on behalf of the Congressional Fire Services Caucus and the Congressional Fire Services Institute, I would like to take this opportunity to celebrate the life of James O. Page, a dear friend of mine who suddenly passed away on September 4, 2004. The founder of JEMS Communication, Chief Jim Page was highly regarded as the father of modern emergency medical services (EMS).

In 1957, Jim began his fire service career with the Los Angeles County Fire Department. He served in numerous locations and roles while working his way through the ranks and completing undergraduate and law degrees at night. In 1971, he was assigned by his department to coordinate the countywide implementation of paramedic rescue services. At the same time, he served as technical consultant and writer for the hit television series ''Emergency.'' Jim later served as Chief of EMS for the State of North Carolina and Fire Chief for the City of Monterey Park, CA.

In 1979, Jim launched JEMS and turned it into one of the world's most respected sources of information for emergency services. In addition, he oversaw the launch of FireRescue Magazine, for which he wrote the highly regarded Burning Issues column. In 2001, he retired from JEMS Communication and was named Publisher Emeritus. A prolific writer, Jim published five books, wrote more than 400 magazine articles and editorials, and presented more than 800 public speeches.

In recent years, Jim has been traveling the country visiting the 100 ''best small towns'' in America to profile each town's fire department. To date, his journey had taken him to 30 departments. At the conclusion of his travels, I was hoping to have him testify on Capitol Hill. I looked forward to hearing him share his experience—lessons learned and lessons that could be applied to how the Federal Government could better address the needs of local first responders.

In 1987, I formed the Congressional Fire Services Caucus to bring a greater awareness of the fire and emergency services to Capitol Hill. Since day one, Chief Page was a believer in the Caucus and helped to form the Congressional Fire Services Institute. The success of both the Caucus and Institute was achieved through the wisdom and knowledge of those individuals beholden to the missions of these organizations. Jim was with us since day one and was always willing to offer his support to strengthen our missions.

Jim strived for a better fire and emergency services. A fitness advocate, he challenged the fire and emergency services to take better care of their own. He earned many accolades along the way, all of which were well deserved. In 1995, the International Association of Fire Chiefs created an annual award in his name, the James O. Page Award of Excellence. In 2000, Fire Chief Magazine recognized him as one of the 20 most influential fire chiefs of the 20th century. In 2002, JEMS Communication created the annual ''James O. Page'' EMS Award.

To his mother Marion, wife Jane and their four children, I would like to say thanks for allowing Jim the liberty and opportunity to share his talents and passion with the fire and emergency services. He has left an indelible mark on public safety. When those who knew Jim best describe him, they say that he was a brilliant leader, and then they invariably add that he was always a gentleman and a genuinely nice person. We will miss him, yet never forget the legacy he leaves behind to the fire and emergency services and to this great Nation.

PERSONAL EXPLANATION

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. ROGERS of Kentucky. Mr. Speaker, on Tuesday, September 28, I had prior commitments and was not present for rollcall votes Nos. 473, 474 and 475. The votes were on a Pelosi motion to instruct conferees on H.R. 4200, a motion to close portions of the conference on H.R. 4200, and S. 2363. Had I been present, I would have voted ''nay'' on rollcall No. 473, and ''yea'' on rollcall Nos. 474 and 475.

CONGRESSIONAL BIRTHDAY TRIBUTE TO PHARMACIST CHARLES NIXON ON OCCASION OF HIS 70TH BIRTHDAY

HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mrs. CHRISTENSEN. Mr. Speaker, I rise today to recognize the contributions of a quiet, family man who served the community of my home island of St. Croix, U.S. Virgin Islands for over 30 years and who will celebrate his 70th birthday on October 2nd. Mr. Speaker, Charles Elvis Nixon came to St. Croix with his family in 1970 and has contributed to its health and well being as a pharmacist, small businessman and good friend and neighbor.

Mr. Speaker, from 1970 through 1985, Charles Nixon owned and managed a small chain of drugstores, namely the Center Pharmacy, Island Pharmacy and Corner Drugs, which were the main centers that met pharmaceutical as well as other needs for the people of St. Croix. His Corner Drug Store was right down the hall from my family practice. More than just professional neighbors, we became friends and he was a sounding board for my early political ideas. We raised our children together.

During that time, Mr. Nixon also co-owned the Caribbean Medical Supply Company with his late wife, Laura and the St. Croix Surgical Center, the island's first privately owned ambulatory surgical service.

Since 1985, he has served the people of St. Croix as a pharmacist at various locations including Gore Pharmacy in Gallows Bay, D&D Apothecary in Frederiksted and Drug World Pharmacy in Sion Farm. He also worked for the Virgin Islands Department of Health from 1993 to 2000 as the pharmacist for the Medical Assistance Program at the Frederiksted Health Center.

Mr. Speaker, one of the greatest tributes to Mr. Nixon, who is lovingly referred to as ''Doc Nixon'' by the many people who he served over the years, is the success of his four children who are all Ivy-League educated and successful as businessmen and women. Mark, his eldest son, is a marketing executive, Tracy, his oldest daughter is an entrepreneur, Jennifer is an obstetrician and gynecologist and Alison is a conference coordinator. Mark, Tracy and Allison are married with families of their own.

Mr. Nixon was born and raised in Smithfield, North Carolina in 1934. He earned his Bachelor Degree in Science and Pharmacy at Texas University. Drafted to serve his country in 1959, he served two years at Ft. Gordon in Augusta, Georgia.

Mr. Speaker, Mr. Nixon had an old fashioned country pharmacist approach to helping people. When his children asked him what he liked most about being a pharmacist on St. Croix, he said he liked meeting and helping people and being a part of the health care team for the island. His children remember that after St. Croix was devastated by Hurricane Hugo in 1989, how Charles Nixon worked long hours to provide as many people as possible with their much needed medication and in some instances, he personally delivered the medication to their homes after work.

His children remember that after their mother's death, the local newspaper mentioned the urgent need for a substitute pharmacist since its only pharmacist, their dad, was out on bereavement leave. This ''mention'' illustrated for them just how many lives a pharmacist touches and how many people depend on them always being there.

Mr. Speaker, on the eve of his 70th birthday, Mr. Nixon continues his work as a pharmacist on St. Croix at the Kmart Pharmacy in Frederiksted. I never go there without stopping to visit with him and catch up on old times and the latest accomplishments of his children. He has re-married to the former Lucille Jacobs and spends his free time playing golf, traveling and visiting with his three granddaughters. I am proud and honored to be able to call Charles Nixon my friend.

Charles Nixon's friendliness, willingness to listen and help, his professionalism, his dedication to his work, his integrity and success as a father and husband, his success as an entrepreneur, his adoption of St. Croix as home and his belief in the power of God's love makes him eminently worthy of this recognition on behalf of the people of St. Croix, the entire Virgin Islands and our Nation.

IN HONOR OF ARMY RESERVE PRIVATE FIRST CLASS NATHAN STAHL

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. VISCLOSKY. Mr. Speaker, it is with great pride and respect that I wish to commend Army Reserve Private First Class Nathan Stahl for his bravery in the field of battle and his willingness to fight for his country. In January 2004 Private Stahl was assigned to the 2nd Battalion, 75th Ranger Regiment from

Fort Lewis, Washington. Private First Class Stahl lost his life on Tuesday, September 21, 2004 in central Iraq when his vehicle was struck by an explosive device. His sacrifice will be remembered at funeral services on Friday, October 1, 2004 by a community that has been struck hard by the devastating loss of one of its own.

A native of Highland, Indiana, Private Nathan E. Stahl graduated from Highland High School. Private Stahl loved documentary-style war movies and dreamed of becoming a United States Army Ranger. As a teen, he joined the Civil Air Patrol Air Force Academy. Private Stahl enlisted in the army before his high school graduation, and the experience he gained from the Civil Air Patrol immediately earned him the rank of Private First Class out of basic training.

It came as no surprise to those who knew Private Stahl that he would serve his country. A true patriot, his love for his country was evident from the time that he was a child. He wanted to help make a difference in the world. At the age of 13 he insisted he and his mother talk with Army recruiters. He left for basic training at 19. Private Stahl wanted to be a hero. Despite the danger, Private Stahl's mother signed her son's release papers because she knew it was what he wanted. He was initially sent to the airborne infantry for training but they found an opening for him in the United States Army Rangers and he was ecstatic. Private Stahl felt tremendous pride for his country, and he was willing to endanger his own life to protect the lives of his fellow citizens. His courage and heroism will always be remembered, and his sacrifice will forever live in the hearts and minds of those for whom he battled. He gave his life so that the freedoms and values that he treasured could be enjoyed by those around the world.

Although he loved his unit and his country, Private Stahl treasured his family above all else. He is survived by his mother and stepfather, Towina and Rodney Nightingale, his father and stepmother, Max and Virginia Stahl, and two sisters, Nicole and Abigail. Private Stahl will also be deeply missed by his fiancée Tiffany Metzler, who is currently serving in the United States Army. These individuals were the heroes to a man that we will forever call a hero, and we should honor them in this tumultuous moment as well.

Mr. Speaker, at this time I ask that you and my other distinguished colleagues join me in honoring a fallen hero, United States Army Reserve Private First Class Nathan E. Stahl. He will forever remain a hero in the eyes of his family, his community, and his country. Let us never forget the sacrifice he made to preserve the ideals of freedom and democracy.

ON THE DEATH OF FORMER CONGRESSMAN BILL FORD

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. DINGELL. Mr. Speaker, I rise with great sadness this evening to announce the death of our former colleague, Congressman William D. Ford. Mr. Ford died August 14th while the House was adjourned. Congressman Ford spent three decades serving the Nation as part of the U.S. House of Representatives. He was a great champion for the causes that concerned so many Michiganders. He worked every day of his life to be the champion of the working poor and the middle class.

Bill Ford was a Member of the House from 1965 to 1995 representing Michigan's 15th and 13th Congressional Districts. During his thirty-year tenure, he served as Chairman of the House Committee on Post Office and Civil Service and as Chairman of the House Committee on Education and Labor.

He was the oldest child of immigrant Scottish parents and the first member of his family to attend college. Following his service in the U.S. Navy, he attended the University of Denver on the GI Bill.

He was the author of the Middle Income Student Assistance Act, the Plant Closing Act and orchestrated the passage of the Family Medical Leave Act, the first law signed by President Bill Clinton in 1993. In 1994 The Federal Direct Student Loan program was named for him in recognition of his efforts to expand educational opportunities for students and lower the cost of education for them.

A champion of federal compensatory education programs to serve educationally disadvantaged children; he was an original sponsor of the Elementary and Secondary Education Act of 1965. He had a special interest in programs serving students from migrant farm worker families.

His father's death in a factory accident led to a lifelong commitment to protect the health and safety of employees in the workplace.

Prior to serving in Congress, he was a delegate to the Michigan Constitutional Convention and a member of the Michigan State Senate. He also served as city attorney of Melvindale, Michigan; as attorney and as justice of the peace of Taylor Township, Michigan.

He is survived by three children, William D, Ford Jr., Margaret Ford VanVleet and John Ford; three grandchildren, a sister, Janet Ford, and a brother, Robert Ford. A memorial service will be held tomorrow here in Washington.

Michigan is a better place because of the work and dedication of William D. Ford. His life left its mark on our state, his death is a tremendous loss. Our sympathies go out to his loved ones, many friends and his dedicated former staffers in Washington and Michigan.

INTRODUCTION OF THE EMPLOYEE FREEDOM FROM INVASION OF PRIVACY ACT

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. PETRI. Mr. Speaker, today, with my colleague, Congressman ROB ANDREWS, I am introducing the Employee Freedom from Invasion of Privacy Act.

This legislation would prohibit the video or audio monitoring of an employee in any area on an employer's premises where an employee changes clothing.

Unfortunately, there have been a number of cases where employers have been caught engaging in secret surveillance via video or audio equipment of their employees in these situations on the job site.

For example, the Wall Street Journal reported that 19 locomotive engineers sued their employer in Oakland County Michigan Circuit Court, charging that their employer had hidden a camera in a locker-room exit sign. A worker at a state college was shocked to discover that her employer had secretly videotaped her changing her clothes in her office after work. A waitress at a restaurant was spied on in the employee changing room when she got dressed for work.

Mr. Speaker, these are just a few examples of the conduct that the legislation Congressman ANDREWS and I are introducing today is intended to prevent. The Employee Freedom from Invasion of Privacy Act would help ensure that workers can go to work without wondering whether their employer has hidden a video camera in the bathroom or a microphone in the office ceiling.

Under the Employee Freedom from Invasion of Privacy Act, an employer who violates the prohibition against video or audio monitoring of any area on an employer's premises where workers change clothing would be liable to the United States Government for a civil penalty of up to $10,000 for each violation.

The bill also authorizes the Secretary of Labor to seek injunctive relief against an employer so as to stop future violations of the prohibitions contained in the legislation.

Enactment of the Employee Freedom from Invasion of Privacy Act would strengthen the right to privacy at a time when the growing use of surveillance technologies at the workplace has endangered this most fundamental of American values.

BENNETT FREEZE REHABILITATION ACT OF 2004

HON. RICK RENZI

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. RENZI. Mr. Speaker, I rise today to introduce the Bennett Freeze Rehabilitation Act of 2004.

The Navajo Nation is the largest Native American reservation in the United States with some of the poorest living conditions in the world. Currently, more than 8,000 people are living in an area called the Bennett Freeze. Only 10 percent of those living in the Bennett Freeze have running water and only 3 percent have electricity.

In 1966, former Bureau of Indian Affairs Commissioner Robert Bennett administratively issued the Bennett Freeze to restrict the Navajo Nation from constructing and repairing their dwellings on land that was subject to a land dispute with the Hopi Tribe.

In 1992, the Bennett Freeze was temporarily lifted. At this time, more than $20 million was proposed to rehabilitate the Bennett Freeze area. Shortly after the Bennett Freeze was lifted, however, a Federal judge reinstated the Freeze.

In the last few years, the Navajo Nation and the Hopi Tribe have been involved in extensive settlement negotiations. I am hopeful that the hard work by both the Navajo Nation and the Hopi Tribe will result in an end to the Bennett Freeze. I commend the work of President Joe Shirley and Hopi Chairman Wayne Taylor for their leadership on this issue.

Mr. Speaker, the Bennett Freeze Rehabilitation Act of 2004 will repeal the Bennett Freeze

and ensure that a source of funding is available to assist the families living in the Bennett Freeze area.

The Bennett Freeze Rehabilitation Act of 2004 creates a program to provide reconstruction and rehabilitation money for the Bennett Freeze area. This includes housing construction and renovation, infrastructure improvements and economic development initiatives.

Mr. Speaker, I urge my colleagues to support the Bennett Freeze Rehabilitation Act of 2004. It is time that Congress corrects a true injustice to the Navajo people living in the Bennett Freeze area.

PERSONAL EXPLANATION

HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, yesterday I was unavoidably detained and missed rollcall votes Nos. 473, 474, and 475. Had I been present, I would have voted: ''Aye'' on rollcall No. 473, the motion instructs conferees on H.R. 4200 to adopt the bipartisan Senate-passed provisions on hate crimes, ''aye'' on rollcall No. 474, the motion to close portions of the Department of Defense Conference Report, and ''aye'' on rollcall No. 475 for S. 2363, to revise and extend the Boys and Girls Club of America.

PERSONAL EXPLANATION

HON. TODD TIAHRT

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. TIAHRT. Mr. Speaker, on September 28th, I was unavoidably detained and missed rollcall vote No. 473. Rollcall vote No. 473 was Representative PELOSI's Motion to Instruct Conferees on the DOD Authorization Act. Had I been present, I would have voted ''no'' on the motion to instruct. I would ask that my statement appear in the appropriate location in the CONGRESSIONAL RECORD.

HONORING G. PIERCE WOOD, JR.

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. DAVIS of Florida. Mr. Speaker, I rise in honor of G. Pierce Wood, Jr., who through his countless contributions to the Tampa Bay community has served as a role model for us all.

A fifth generation Floridian, Pierce never shied from service. After attending the U.S. Naval Academy, he served a tour of duty in the Korean War. Pierce went on to serve TECO Energy for 34 years, retiring as Senior Vice President in 1988 to form his own government relations consulting firm.

Pierce, however, will be best remembered for his many community activities and tireless support for a host of charitable causes. Throughout his lifetime of service, Pierce was chairman of the Committee of 100 of the Greater Tampa Chamber of Commerce and chairman of the Board of Fellows of the University of Tampa. He was president and chairman of the MacDonald Training Center Foundation and president and campaign manager of the United Way of Greater Tampa.

Pierce served as director of the Tampa Museum of Art and the Tampa Philharmonic, first chairman of the capital cabinet of the new Lowry Park Zoo, president of the Gold Triangle and a member of the event advisory committee of the Tampa Sports Authority and many other civic and charitable organizations. All the while, he was active in the Rotary Club of Tampa, the Sertoma Club and St. Andrew's Episcopal Church.

Those who knew Pierce well remember him as ''a true Southern gentleman'' and ''a giant among men.'' On behalf of the Tampa Bay community, I would like to honor G. Pierce Wood, Jr. for his dedication to serving others and extend my deepest sympathies to his many loved ones.

REVISING AND EXTENDING BOYS AND GIRLS CLUBS OF AMERICA

SPEECH OF

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. KIND. Mr. Speaker, I rise today in support of S. 2363, legislation to further the support of the Boys and Girls Clubs of America. As a former participant of the Boys and Girls Clubs, I know first hand how successful it is in giving young people a sense of usefulness, belonging, and influence. Today, my two little boys, Johnny and Matthew, participate in this organization's flag football, baseball, and basketball leagues. I have seen that it provides young people with a safe place to learn, establish strong relationships, and build good character.

The Boys and Girls Clubs of America has been ranked number one among youth organizations for the tenth straight year, and has been listed as 15th among all nonprofit organizations. It is the nation's fastest-growing youth development organization with a primary focus on young people from disadvantaged backgrounds.

It serves more than 4 million boys and girls through 3,400 club locations, which are located in all 50 states, Puerto Rico, the Virgin Islands, and both domestic and international military bases. Sixty-five percent of the children that participate in the Boys and Girls Clubs are from minority backgrounds. The wide reach of this organization helps all types of children develop creativity through the arts, a healthy lifestyle through fitness activities, and a career through educational, character, and leadership programs.

Having served on the Board of Directors for the La Crosse Boys and Girls Clubs, I know the amount of time and hard work that goes into operating this organization. I would like to thank Terry Erickson, the current director of the La Crosse Boys and Girls Clubs, who has served since I was a participant. Terry has taken the La Crosse Club to heights never before imaginable. He has become synonymous with the Club and a role model to everyone involved.

I would also like to thank Natalie Carlise for providing the enthusiasm at the relatively new Boys and Girls Clubs of Sparta. Terry, Natalie, and their staff provide a safe and nurturing atmosphere for the children of western Wisconsin. Their commitment to the Boys and Girls Clubs is greatly appreciated by volunteers, parents, and especially the children at the Clubs. I cannot thank them enough for their selfless giving of time, and love for our children.

Mr. Speaker, I am pleased to support this legislation on the floor today, to extend the authorization of this important program for our children who represent the future of our country.

PERSONAL EXPLANATION

HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mrs. MYRICK. Mr. Speaker, I was unable to participate in the following votes due to a personal matter. If I had been present, I would have voted as follows:

September 23, 2004: Rollcall vote 469, on H. Res. 785, on ordering the Previous Questions, I would have voted ''yes.'' Rollcall vote 470, on H. Res. 794, on ordering the Previous Question, I would have voted ''yes.'' Rollcall vote 471, on H. Res. 794, on Agreeing to the Resolution, I would have voted ''yes.'' Rollcall vote 472, on agreeing to the conference report for the Relief for Working Families Tax Act of 2003, I would have voted ''yes.''

PIRACY DETERRENCE AND EDUCATION ACT OF 2004

SPEECH OF

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. GOODLATTE. Mr. Speaker, I rise today to urge my colleagues to support legislation I introduced to designate the oak as America's national tree.

During a four-month-long online election, with almost a half million votes logged, the American people chose the oak tree as America's national tree. To make official what the American people have already chosen, I introduced H.R. 1775 last April, which will officially designate the oak as America's national tree.

As a member of Congress representing a heavily forested district in Virginia, I know firsthand how trees add to our quality of life. As Chairman of the House Agriculture Committee, I appreciate how trees and forests enhance the environment, add recreational opportunities and provide for the livelihoods of millions of individuals in the forest industry. Whether enjoying a product generated from a forest, or the simple satisfaction of lying under a shaded giant, trees contribute to all Americans.

The strong and stately oak tree is of particular importance in America's history and culture. Not only is this majestic tree an aesthetic beauty that characterizes the landscape of much of our great Nation, it also provides us with wood products in our homes, our offices

and our places of gathering. Present in all 50 states, the oak has played a huge role in America's history as a valuable resource. It helped our founding fathers establish a new Nation, supplying building materials for the ever-expanding 13 original colonies. It served as a familiar sight to pioneers as they forged across the new republic to the west coast. And to this day it has remained an enduring, valuable, and highly-prized raw material from which beautifully crafted furniture, sturdy door and window framing, ornate flooring and paneling, and the like, are made. This enduring and mighty tree, which has long been a part of our national heritage and strength, fully merits the distinction as America's national tree.

The oak tree has also played a key role in many specific historic moments in our Nation's history. Abraham Lincoln found his way across a river near Homer, Illinois, using the Salt River Ford Oak as a marker. When King James II attempted to revoke Connecticut's charter, the ''Charter White Oak'' is said to have been the hiding place for the historic document. Andrew Jackson took shelter under Louisiana's Sunnybrook Oaks on his way to the Battle of New Orleans. And ''Old Ironsides,'' the USS *Constitution*, earned its nickname from the strength of its live oak hull, famous for easily repelling British cannonballs.

Chosen by the people in a broad-based election, the oak tree represents the fundamental characteristics of the great nation: strength, endurance, and beauty. I urge each of my colleagues to make official what we have known for many years . . . that the oak tree is America's national tree.

IN HONOR OF ST. MARY, STAR OF THE SEA SCHOOL

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. MENENDEZ. Mr. Speaker, I rise today to honor St. Mary, Star of the Sea School, which will be celebrating its 125th Anniversary on October 2, 2004, in Bayonne, New Jersey.

Throughout the years, St. Mary's School, with the help of the Sisters of St. Joseph of Chestnut Hill, has provided the children of its parish with an excellent education and a strong spiritual foundation. More than 300 students from pre-school through eighth grade thrive at St. Mary's, and an additional 350 children participate in its Sunday school religious program. The long-standing tradition of quality at the school is mirrored by St. Mary's parish, which has diligently served the Bayonne community for 143 years.

Today, I ask my colleagues to join me in honoring St. Mary, Star of the Sea School for its outstanding spiritual leadership and 125 years of excellence in education in Bayonne, New Jersey.

FREEDOM FOR OMAR MOISÉS RUIZ HERNÁNDEZ

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to speak about Omar Moisés Ruiz Hernández, a political prisoner in totalitarian Cuba.

Mr. Ruiz Hernández is a peaceful pro-democracy activist in totalitarian Cuba. He is an independent journalist for the Decoro Working Group and was vice delegate of the Democratic Solidarity Party. The son of a reverend, his religious conviction and belief in freedom has made him a target of the dictatorship's thugs. According to Amnesty International, Mr. Ruiz Hernández was arrested in January and March 1996, interrogated in October 1997, and subject to ongoing harassment as he carried out his activities.

As an independent journalist, Mr. Ruiz Hernández has written about the nightmare that is the Castro regime. His articles have appeared on the CubaNet website. According to Reporters Without Borders, Mr. Ruiz Hernández has been harassed for his reporting on the malfunctioning of Cuban society under the totalitarian regime as far back as 1992.

In March, 2003, as part of the dictator's condemnable crackdown on peaceful pro democracy activists, Mr. Ruiz Hernández was arrested because of his belief in truth and liberty over propaganda and repression. In a sham trial, he was ''sentenced'' to 18 years in the inhuman, totalitarian gulag.

Mr. Ruiz Hernández is suffering from extreme abuse in the gulag. According to Reporters Without Borders, he has been held in ''maximum harshness'' including isolation in a 1.9 by 4 meter cell, as well as transferred to a cell with common prisoners. Mr. Ruiz Hernández is also ailing from diseases caused by the heinous conditions of the gulag.

Mr. Speaker, Mr. Ruiz Hernández is suffering in a grotesque gulag because he believes in truth and freedom. My Colleagues, it is absolutely unacceptable that peaceful pro-democracy activists are languishing in the depraved prisons of tyrants. We must demand immediate freedom for Omar Moisés Ruiz Hernández and every prisoner of conscience in totalitarian Cuba.

CENTENNIAL SAM VOLPENTEST

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. DICKS. Mr. Speaker, last Friday night in Pasco, Washington several members of the Washington State Congressional Delegation attended an unusual event: the celebration of the 100th Birthday of a man who may be the world's oldest active lobbyist and one of the most successful and accomplished economic development leaders in the United States. Sam Volpentest, who was born on September 24, 1904 has been a real leader of the business community in the Tri-Cities community of central Washington state since the early 1960s. The cities of Pasco, Kennewick and Richland grew and developed around the Hanford Nuclear site following World War II, and Sam moved to the area in the late 1940s. His business interests led to his involvement in local economic development efforts, and in 1960 he began to lead the area's efforts to expand its energy-related work for the federal government and to diversify the regional economy. My earliest recollections of Sam were when I served on Senator Warren Magnuson's staff. Sam and the publisher of the local paper, Glenn Lee, would meet with the Senator, setting him in motion on another project, another building, another highway—always something that meant bringing more jobs to the area and always helping to make the Tri-Cities community economically stronger. There was the work on the N-Reactor, the FFTF—The Fast Flux Test Facility—and the FMEF—the Fuels and Materials Examination Facility. When I was elected to Congress from the 6th District, I was obviously enlisted in the cause, and since then have worked with all of the Congressmen from the 4th Congressional District—including Doc Hastings today—on important national security and energy research activities. We have worked on the cleanup of nuclear waste and on new missions for DOE-Hanford, on EMSL and, of course, the Volpentest Hazardous Materials and Emergency Response Training Center, named in honor of Sam. Along the way, Sam and I had countless discussions about dozens and dozens of other ideas he had over the years to diversity the region's economy and to keep the standard of living in the Tri-Cities as remarkably high as it is today.

Sam is truly a remarkable man who continues today—beyond his 100th birthday—to work on behalf of TRIDEC, the economic development authority in the Tri-Cities community. I would like my colleagues to read the tribute that was published on his birthday in the local newspaper. Following is an article that was published in the Tri-City Herald.

[From the Tri-City Herald]

CELEBRATING A CENTURY OF SAM

(By John Trumbo, Herald staff writer)

The Tri-Cities' most celebrated birthday boy is having a party tonight at the Pasco Red Lion. The event includes just his family and a few friends, about 700 of them at last count.

Volpentest is pleased.

''I'd like to see everybody happy and have a good time,'' he said earlier this week from his office at the Tri-Cities Industrial Development Council in Kennewick.

Volpentest is looking forward to seeing some of his old friends, such as former Gov. Albert D. Rosellini, 94.

Volpentest and Rosellini go back more than three-quarters of a century when they were both members of an athletic club called the Italian Club in Seattle.

''I joined in 1933 at the age of 29. He was 23,'' recalled Volpentest.

A quarter of a century later, Rosellini was elected governor of Washington, and Volpentest was cutting political deals in the Tri-Cities for national lawmakers representing the Evergreen State. In Volpentest's world, friendships count a lot.

These days, Volpentest, who insists he is not retired despite doctor's orders to take it easier, comes into his office Monday through Friday. He continues to keep his hand in the game at TRIDEC on behalf of the Tri-Cities, calling in favors and calling on politicians in Washington, D.C., just like he has for nearly half a century.

Volpentest's track record for bringing home the bacon is legendary, and perhaps the main reason his birthday parties attract so many grateful well-wishers.

Just this week he received the 2004 Edward DeLuca lifetime achievement award from the International Economic Development Council in Washington, D.C., recognizing ''his unfailing commitment and endless accomplishments,'' said Steven Budd, council chairman.

Volpentest accepted the accolade with well-rehearsed ado. Dozens of awards, plaques and commendations have come his way in the past four decades. Those not displayed on his office walls are in his home or stored in his garage, he said.

Reaching the century mark is remarkable, but for Volpentest, it is a good deal more.

''The doctor gave me a month to live in 1957,'' he says, recalling those frightening days when cancer of the jaw nearly took his life.

A lot has happened since then. Volpentest helped found what is now TRIDEC, got deep into state and national politics, and along the way helped bring millions of dollars of development and infrastructure to the Tri-Cities.

Buildings, freeways, research laboratories, bridges, a hotel and a training center for emergency response teams all have the touch of Volpentest on them to some degree.

And he says he's not done yet.

''We need more money for the HAMMER training facility. It's proven itself as a world class facility. We need more classrooms out there,'' he said.

Volpentest also is fully aware that Hanford's budget hasn't been approved by Congress, and that Battelle needs to have support for the new campus in north Richland.

''They (Battelle) are the foundation for the growth of this area,'' Volpentest said.

The centenarian says he's seen so much growth in the Tri-Cities that he's concerned the region might grow too fast.

''We can have steady growth, but not too many people too fast,'' he said.

His birthday wish for the Tri-Cities is that the communities would start working together. ''Teamwork is the most important word to me,'' he said, adding that politics today seems to be more unfriendly than it used to be.

Volpentest's birthday wish for himself is ''to have a few more years.''

He has no secrets to share about how to reach the century milestone.

''How would I know? Got good genes, I guess. Just work hard and stay active,'' Volpentest said.

Tonight's party isn't all there is for the birthday boy. The Seattle Seahawks have invited him to bring out the game ball for Sunday's home game with the San Francisco 49ers.

''I just hope they don't expect me to run with it,'' he said with a gleam in his eye.

RECOGNIZING TARIK YAMEEN FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Tarik Yameen, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 376, and in earning the most prestigious award of Eagle Scout.

Tarik has been very active with his troop, participating in many Scout activities. Over the course of the years Tarik has been involved with Scouting, he has earned 33 merit badges and has held numerous leadership positions, serving as Patrol Leader, Den Chief, Quartermaster, Senior Patrol Leader, Troop Guide, and OA Troop Representative. He has earned the 12 Month Camper Award, 100 Nights Camper Award, BSA 50 miler, the Interpreter Strip, and is BSA Lifeguard certified. Tarik is a Warrior in the Tribe of Mic-O-Say and is an Ordeal Member of The Order of the Arrow.

Tarik's Eagle Scout project consisted of designing and leading a group of Boy Scouts to build shelving for hand bell boxes, a shelf/moveable cart for the hand bell table with accessories, and also a cart for the sound equipment and miscellaneous items for church services. This was done for his church, Liberty Christian Church.

Mr. Speaker, I proudly ask you to join me in commending Tarik Yameen for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

HONORING MILFORD PUBLIC LIBRARY

HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. MCCOTTER. Mr. Speaker, I rise today to acknowledge and honor the Milford Public Library, which is celebrating 75 years of service to the Milford, Michigan community.

On April 1, 1929, by a vote of 326 to 174, citizens approved the establishment of a free public library by levying a half-mill tax. However, the real beginnings of the Milford Library can be traced back to the 1890s. In March of 1895, the Milford Times reported about the beginnings of a new organization, the ''Ladies' Library Association.'' The goal of this fledgling group was to ''establish a library of high-class literature, sufficiently varied to suit the different tastes,'' and to which the members will have access. Later that month, the Times reported on the success of the organization, which had already attracted 52 members.

The members felt ''the need of something in the way of a public library has long been felt, and many hail with delight this project whereby at a small cost they can have access to the best of current literature.'' The Association imposed a $1.00 fee on members, which allowed them to draw one book from the collection each week.

Between the dissolution of the Association and the beginnings of the Public Library, the Milford Monday Literary Club sponsored a reading room for 15 years. The Club's collection of material was transferred to the new public library.

Mr. Speaker, for over 75 years the citizens of Milford, Michigan have continued to support the vision of the Ladies' Library Association and the Milford Public Library. I hope my colleagues will join me in thanking the citizens of Milford, Library Board Members and employees of the Milford Public Library for their outstanding service to the people of Michigan, and wish them well in the next 75 years.

SUPPORT OF THE AMERICAN ISRAEL PUBLIC AFFAIRS COMMITTEE

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. ANDREWS. Mr. Speaker, I rise today in strong support of the American Israel Public Affairs Committee AIPAC. For over fifty years, AIPAC, acknowledging that the security interests of Israel and the United States are intertwined, has worked diligently to strengthen the relationship between Israel and the United States. They have educated members of Congress and the public alike on the issues that Israel faces in its quest to remain a stable, democratic ally to the United States in a part of the world where such nations are scarce. Even in the face of the ongoing unrest in Israel, AIPAC continues to work tirelessly towards an end to terrorism, and an achievement of peace and security in the region.

In recent weeks, our friends at AIPAC have been the subject of allegations that question their dedication to the preservation of national security within the United States. Accusations such as these, which lack substantial credible proof behind them, have no positive effect. These baseless claims make it impossible for AIPAC to defend themselves, and uphold the favorable reputation that they have earned through their efforts. In this case, such charges also threaten to intensify the plague of anti-Semitism that AIPAC has tried to fight throughout its history. It has been my experience that AIPAC and its members care deeply about the collective security interests of the United States and Israel, and I continue to stand by them in their noble efforts.

PERSONAL EXPLANATION

HON. DENISE L. MAJETTE

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Ms. MAJETTE. Mr. Speaker, I was unavoidably detained for a number of rollcall votes. Had I been present I would have cast my votes as follows: ''Yes'' on rollcall No. 457, ''Yes'' on rollcall No. 458, ''No'' on rollcall No. 459, ''Yes'' on rollcall No. 460, and ''No'' on rollcall No. 470.

HEALTH PROTECTIONS FOR OUR SERVICE PERSONNEL

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. TOWNS. Mr. Speaker, today the gentleman from Connecticut, Mr. SHAYS and I have joined to introduce H.R. 5166, The Armed Forces Voluntary Immunization and Health Justice Act of 2004.

In the 104th Congress, Mr. SHAYS and I joined in holding several oversight hearings on the cases of Persian Gulf Syndrome that were affecting our military men and women returning from the first Persian Gulf War. Those

hearings served as the impetus for causing the Department of Defense to seriously re-examine and re-vamp its system of diagnosis, treatment and compensation for Persian Gulf War veterans. I know that the work we did on that issue made a difference in the lives of those service members who agreed to risk their lives for us.

However, our concerns about the health of veterans and active duty military members did not end with those hearings. We have worked together to craft a bi-partisan solution to provide members of the military with the ability to make informed decisions about immunization for anthrax and smallpox. The right to informed consent is enjoyed by every citizen, except those in the military. If enacted, this bill would prohibit the Department of Defense from mandating immunization against anthrax and/or smallpox if a soldier believes that the risk to his or her health status outweighs the benefit of immunization.

Service members have experienced adverse health effects from these vaccines including heart, respiratory, and skin problems. In one well-known case, a soldier died from the adverse effects of a vaccine. Despite the known risks, many soldiers have been required to take these vaccines. As a result, many have decided to leave the service rather than run the risk of vaccination. Unfortunately, many honorable soldiers have been punished solely for refusing to accept these vaccines. Our legislation would assure that soldiers who want to serve are not faced with this agonizing choice.

Mr. Speaker, I urge my colleagues to cosponsor this bill and join us in assuring that members of our military have the ability to determine whether or not to take these vaccines.

RECOGNIZING TOM KISTLER

HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Ms. HOOLEY of Oregon. Mr. Speaker, today I want to recognize and remember the life of a local hero: Tom Kistler.

Although it has been over a year, it is still hard for those affected by this humble, quiet man to believe he's gone. The residents of Polk County, Oregon, know their neighbors—and they look up to the firefighters who serve them.

Killed on his way to drill on March 29, 2003, Tom Kistler died in the same way he lived—in the service of others.

Captain Kistler was a volunteer firefighter for twenty-five years. He was proud of his time with the Independence (Oregon) Fire Department and Polk County Fire District #1.

It was Tom that led the effort in fielding a water rescue/recovery team; it was Tom that brought his peers together to raise funds for the annual Firefighter's Christmas program for the local children; and it was Tom that was always ''there'' keeping his community safe.

As if his service in the fire department wasn't enough—and it would have been—Tom was also a thirty-year veteran of the Oregon National Guard.

For Tom Kistler, being a citizen meant action. It meant doing things. Citizenship was a verb.

This week, brothers and sisters in service will remember his life and his sacrifice during a special ceremony at the National Fire Academy.

Today, let us take a moment and reflect upon Tom Kistler and many like him that serve our communities and our Nation, the folks that make the personal sacrifices every day, not because they have to but because they choose to. They are the volunteers that make our Nation strong, the people that make our communities special.

America is still the land of the free and the home of the brave—Tom Kistler helped make it so.

EDITORIAL FROM THE BECKLEY REGISTER-HERALD

HON. NICK J. RAHALL, II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. RAHALL. Mr. Speaker, Congress was supposed to reauthorize the major surface transportation and jobs bill, the successor to TEA 21, a year ago.

Now, because of the indifference of the Bush Administration and the Republican Leadership in Congress, we are about to embark on the sixth extension of TEA 21, rather than completing work on a bill that would address our current and future infrastructure needs as well as providing sorely needed jobs and economic stimulus.

The House and Senate versions of transportation and jobs bill passed both houses by margins larger than is required in Congress for amendments to the Constitution. But the bill is on a road to nowhere because the Cheney-Bush reelection bunch wants to make up for their Medicare debacle by trying to appear tough on spending. Meanwhile, we have the votes in both the House and the Senate to override a threatened presidential veto and pass a meaningful bill, but the Republican House and Senate leadership are just caving into the Bush Administration's reelection efforts. In so doing, they're failing to uphold the Constitutional obligation of Congress.

Although Americans are crying out loud and clear for the need to reinvest in our country, the Bush Administration and the Republican leadership don't bother to listen. As an example of what I'm talking about, I have an editorial from a widely-read newspaper in my district, the Beckley Register-Herald, which I would like to submit for the record to accompany my remarks. Yesterday, in response to Congressional inaction on the transportation and jobs bill, the Register-Herald ran the editorial appearing below:

[From the Beckley Register-Herald]

HIGHWAY BILL

While politicians play election-year politics, W.Va. suffers.

Heard the latest? A multiyear highway spending bill, crucial to progress here in southern West Virginia, appears to be off until after the election.

The existing six-year highway and mass transit spending bill, funded at $218 billion, ran out a year ago and has had to be prolonged by several short-term extensions because of differences over spending levels between Congress and the White House.

The White House, citing the need for fiscal restraint, recommended $256 billion and threatened to veto any bill that would add to the deficit.

The Senate approved a $318 billion package. The House originally came in at $284 billion, and recently the two chambers united around a figure of $284 billion in guaranteed contracts plus another $15 billion in contracts that have yet to be carried out.

But politicians are playing election-year politics, and, of course, nothing of substance is getting done.

As we pointed out a few days ago, no one can accuse this Congress of overwork—it's only been in session roughly one day out of every three.

Sadly, lawmakers sent to the president only a fraction of the 13 spending bills necessary to fund the government for the fiscal year that starts Friday. That includes the transportation bill to fund highway and transit projects for the next six years—vitally important to southern West Virginia.

The Mountain State faces unique challenges when it comes to building highways. It can cost up to $20 million to build one mile of a highway here.

This state relies heavily on the federal program to build highways. A total of $2.2 billion was secured for West Virginia in the House version of the bill, $2 billion of which are projects in southern West Virginia.

Interstate links developed here in recent years have brought new jobs and the potential for attracting new businesses. These roads provide modern access and position West Virginia as a crossroads for business developers looking for locations in the East. They provide our families a safer means of getting to and from school and work.

Ordinary West Virginians can't afford to see these opportunities go by the wayside, or even delayed. We suffer while Congress engages in gridlock.

Enough is enough. Congress and the Bush administration need to get in gear and produce a highway spending package that's adequately financed.

SERGEANT RIAYAN A. TEJEDA POST OFFICE

SPEECH OF

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. RANGEL. Mr. Speaker, I rise to speak in support of H.R. 4046, calling for the United States Postal Service located at 555 West 180th Street in New York, New York, to be hereby named the ''Sergeant Riayan A. Tejeda Post Office.''

Staff Sergeant Riayan A. Tejeda of the 3rd Battalion, 5th Marine Regiment was killed during combat operations in northeast Baghdad on April 11, 2003; he was 26 years of age. A New York City resident, he lived in my district of Washington Heights on 180th Street until graduation from Fashion Industries High School in the Garment District, thereafter joining the Marine Corps at the age of 18. I introduced this legislation because Sgt. Tejeda was a hero in every sense of the word, a man born in the Dominican Republic who made the ultimate sacrifice for the United States.

After spending formative teen years meeting the challenge of growing up in the tough streets of Washington Heights, Sergeant Tejeda joined the military with his hopes and dreams of the future on the horizon. He joined the military to better himself and to serve our country, later reenlisting after his initial term of duty had elapsed.

Sergeant Tejeda was the first Dominican killed in Iraq, a fact that history will rightfully record but in itself will not and cannot appreciate the pain of his loss to his two young daughters and mourning family.

At the time of his death, while the fatality count was still in its early stages, minorities constituted as high as 35 percent of the fatalities in the line of duty. Latinos, who comprise 8 percent of the total fighting force in Iraq, have incurred 16 percent of all intensive fighting deaths and 12 percent of the total fatalities during Operation Iraqi Freedom. These numbers are clear evidence of the disproportionate sacrifice being made in Iraq by Latinos and point out the level of their loyalty to their chosen country.

Riayan Tejeda was an outstanding young man with limitless potential, known for his studious nature and gentlemanly demeanor. He was a brave, selfless man of great conviction who fought and died for a nation of immigrants that today does not always appreciate the contributions and sacrifices made by new generations of outsiders pursuing better lives. Sergeant Tejeda, who had served in the Marine Corps for 8 years, was awarded U.S. citizenship only after his death and received the Silver Star for his valor in the line of fire. He proudly served our Nation in Thailand, South Korea, the Philippines, Australia, East Timor and Iraq. Sergeant Tejeda was the finest marksman in his regiment.

The naming of the U.S. Post Office in Washington Heights for Sergeant Tejeda will be received by the community with great pride and satisfaction. It is the least our country can do to honor the memory of Sergeant Tejeda's short and heroic life.

I extend my appreciation and sympathies to his parents Julio Cesar Tejeda and Carmen Rafaela Lora, his daughters Loriana and Miranda and his brothers Angel and Andre. I thank my colleagues for their support on this legislation.

TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2005

SPEECH OF

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 5025) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, and for other purposes.

Mr. POMEROY. Mr. Chairman, I rise today to say that I will be voting for H.R. 5025, the Fiscal Year 2005 Transportation, Treasury, and Independent Agencies Appropriations Bill in the hopes that this bill's serious problems can be fixed in conference negotiations with the Senate.

Unfortunately, the House and Senate Transportation Conferees have been unable to reach a deal on a transportation reauthorization bill. As a result, appropriated funds for unauthorized programs were struck from the proposed Fiscal Year 2005 Transportation, Treasury, and Independent Agencies Appropriations bill. Doing so made this bill woefully inadequate in terms of funding levels for various transportation agencies and programs including the Federal Highway Administration, the Federal Motor Carrier Safety Administration, the National Highway Traffic Safety Administration, Amtrak, the Federal Transit Administration and the Surface Transportation Board.

However, I am going to vote for the bill based on the assurances of the Chairman and Ranking Member of the Transportation, Treasury and Independent Agencies Appropriations Subcommittee that funding for these critical accounts will be reinstated in conference. I hope that by furthering this bill, we can ensure that funding for North Dakota's significant transportation needs is secured.

I rise as well to express my opposition to the authorization of an automatic cost-of-living (COLA) pay increase for Members of Congress contained within H.R. 5025. A fiscally responsible Congress should have the opportunity to consider a pay raise independently of funding for important transportation projects in their districts. That is why I voted against the previous question on the rule to allow consideration of H.R. 5025 separate from this provision. It is my hope that Congress will take steps to ensure separate consideration for any increases in the future.

PERSONAL EXPLANATION

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. HONDA. Mr. Speaker, on Tuesday, September 28, I was unavoidably detained for rollcall votes that day.

Had I been present I would have voted the following:

Rollcall 473, on the Motion to Instruct Conferees on H.R. 4200—Defense Authorization Act for fiscal year 2005, instructing conferees to adopt the bipartisan Senate-passed provisions on hate crimes, I would have voted "yea";

Rollcall 474, on the Motion to close portions of the Defense Authorization Act Conference from the public for national security reasons, I would have voted "yea"; and on

Rollcall 475, on S. 2363, to revise and extend the Boys and Girls Clubs of America, I would have voted "yea."

PERSONAL EXPLANATION

HON. J. GRESHAM BARRETT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. BARRETT of South Carolina. Mr. Speaker, I was delayed in my district yesterday in order to attend services for Staff Sergeant Tony B. Oleas, a soldier from Westminster, South Carolina who was killed while fighting for our country in Afghanistan on September 20th, and I unfortunately missed 3 recorded votes on the House floor.

I ask that the RECORD reflect that had I not been detained in my district, I would have voted "no" on rollcall vote No. 473 (Pelosi motion to instruct conferees to H.R. 4200, the Defense Authorization bill); "yes" on rollcall vote No. 474 (motion to close portions of the conference on H.R. 4200, the Defense Authorization bill); and "no" on rollcall vote No. 475 (S. 2363 to revise and extend the Boys and Girls Club of America).

HONORING OLYMPIC GOLD MEDALIST OTIS HARRIS, JR.

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. THOMPSON of Mississippi. Mr. Speaker, I would like to recognize Edwards, Mississippi native, Olympic gold and silver medalist, Otis Harris, Jr. At this year's 2004 Olympic Games held in Athens, Greece, the track and field standout showcased his world class speed on the world's biggest stage.

Edwards, Mississippi's hometown hero, the son of Otis, Sr. and Cheryl Harris, began his track career at high school track powerhouse, Hinds Agricultural High School in Raymond, Mississippi. As Harris helped lead his high school team to three consecutive Class 2A State Championships, and in 1999 winning the 100m, 200m, and 400m State Championships respectively, he accumulated dozens of individual accolades leading to his acceptance of a track scholarship from the University of South Carolina.

Running his way through both the Gamecock and Southeastern Conference (SEC) record books in 2003, Otis took claim of SEC track titles in the 400m dash, as well as the 4 X 400m relay team, making these his signature events. Harris was deemed academically ineligible to participate in athletics during the 2004 collegiate season, causing him to briefly disappear from the Olympic track radar screen.

As Harris stunned many by qualifying for the Olympics in July 2004 in the 400m dash, he remained unfaltering as his dreams became realistic. On Monday, August 23, 2004, Otis settled into his familiar stance, only this time Olympic medals were up for grabs. Running the fastest time of his life (44.16), Otis garnered the Olympic silver medal in the 400m dash.

While still overwhelmed with the excitement of his first Olympic feat, Harris took the stage again five days later. This time Harris was starring in his other signature event, the 4 X 400m relay team which was favored to win the gold. Harris teamed with Derrick Brew (400m bronze), Jeremy Wariner (400m gold) and Darold Williamson. Harris ran the fastest leg of the four Americans, turning in a time of 43.28; the team ran 2:55.91, the best time in the world this year, bringing home the gold medals.

I commend Mr. Otis Harris, Jr. for his valiant triumphs at this year's Olympic Games. His efforts are buttressed by his resiliency through the seemingly unsteady foreign relations climate leading into the Games. Harris, as well as all of our Olympic athletes, showed true professionalism in serving as ambassadors and representing our nation on the global stage. May Otis continue to represent our nation with professionalism and may he continue to excel in his career.

REVISING AND EXTENDING BOYS AND GIRLS CLUBS OF AMERICA

SPEECH OF

HON. ANDER CRENSHAW

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. CRENSHAW. Mr. Speaker, I rise today to pay tribute to the Boys and Girls Club of America and to support extending their Charter to meet future goals. As the saying goes, to the world you may be one person. But to one person, you may be their entire world. I think this applies especially to all of the good people involved with the Boys and Girls Club of America.

To me and to millions of children, Boys and Girls Clubs are not just buildings. These clubs are not just places where kids meet other kids. These clubs are the bedrock foundation for a number of young people who face an otherwise rapidly changing, and sometimes unstable, world.

These clubs are a point of stability, an area where young people learn responsibility. These clubs are places where boys and girls learn about teamwork, leadership, and values.

Back in 1860, several women in Hartford, Connecticut believed that boys roaming the street should have a positive alternative. They formed what would become the first Boys Club. In 1906, Boys Clubs started to affiliate and by 1956, the Boys Club of America received a Congressional Charter. Reflecting the times, Girls were added to the official name of the organization and its Charter in 1990.

But Boys and Girls Clubs are more than their history; these clubs are their volunteers, the people who operate these clubs, and the club sponsors. Each individual's contribution is reflected in the success and longevity of this organization. One of the issues I follow closely, support, and promote every chance I get is mentoring. I think this falls directly in line with what the Boys and Girls Club is all about.

Some of my friends might remember a discussion I began several years ago concerning ''problems of the soul.'' My focus was the erosion of moral values in our country and what we might do on a personal level, a community level, and even on a governmental level, to reverse the decline.

Much has occurred in the years since I began talking about problems of the soul. Much of what has happened is positive. Our nation places high value and respect on the family. We are a nation that rushes to the aid of those in need. The people of this country hold in reverence those who sacrifice their work, time with family, even their life for their country.

Despite the best of efforts, long-established vices continue to claw at our society. Plus, our world faces an even deeper evil, one rooted in radical extremism, one that finds its way to our society through terrorism. So clearly, there is still a need to focus on problems of the soul, and a need to find role models willing to give of their time and resources so that our young people have the opportunity to grow, learn, and accept responsibility.

Mentoring is a very worthwhile and much needed cause. Mentors serve as a guiding light, a benchmark, and a valuable asset for the many young people in America who might not otherwise have access to such a role model.

For many young people, mentors set an example of civility and stability. Mentors promote education and community respect. Mentors teach young people that there are benefits to contributing to selfless efforts such as charity drives, neighborhood cleanups, and serving in soup kitchens.

As a mentor, I personally know the satisfaction it brings to offer advice and guidance to a young person. I have known my mentee, Derek Williams for many years. Over that period we have become good friends. Today I am proud to say that he is in college, furthering his education, and building a strong foundation for his future.

There are numerous studies documenting that mentors help young people to augment social skills, enhance emotional well-being, improve cognitive skills, and to plan for the future. It also recognizes that for some children, having a caring adult mentor to turn to for guidance and encouragement can make the crucial difference between success and failure in life.

So it is incumbent on each and every one of us to offer our time and energy and love to children to provide positive role models and influences to young people to give them guidance and hope.

Currently, 17.6 million young people, nearly half the youth population, want or need mentors to help them reach their full potential. Only two-and-a-half million youth are in formal mentoring relationships, leaving 15 million young people still in need of mentors.

Earlier this year I asked Congress to adopt a resolution designating January 2004 as National Mentoring Month. My hope was that this month-long celebration of mentoring would encourage more adults to volunteer their time as mentors for young people and enlist the involvement of nonprofit organizations, schools, businesses, faith communities, and government agencies in the mentoring movement. I think that effort was successful, but we have more to do.

The Boys and Girls Clubs are to be congratulated for working to make a positive difference in our society.

HONORING THE 30TH ANNIVERSARY OF TRI-VALLEY NOW

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. STARK. Mr. Speaker, Ms. TAUSCHER and I rise today to pay tribute to the 30th Anniversary of the Tri-Valley Chapter of the National Organization for Women (NOW). The Tri-Valley Chapter represents the cities of Pleasanton, Dublin, and Livermore, California.

Attendees at the Third National Conference of the Commission on the Status of Women established the National Organization for Women on June 30, 1966 in Washington, DC. The Commission on the Status of Women reported in 1963, that despite having won the right to vote, women in the United States were still discriminated against in virtually every aspect of life. In 1974, eight years following the Commission's report, Tri-Valley NOW was founded during a national surge in women's activism.

The year 1974 was a time of upheaval and change. President Nixon resigned and Vice President Gerald Ford was sworn in as President. That year's number one television show, ''All in the Family,'' was a controversial reflection of the social struggles of the time. Title IX, the federal law aimed at providing equal educational opportunities, was in its infancy.

Local women in the Tri-Valley area, such as Dorris Lee, Denise Gordon and Jean Felton could not sit on the sidelines during this stage of change. They took action and, with encouragement from Contra Costa NOW, they planned the Tri-Valley NOW's first meeting in 1974, which featured guest speakers from East Bay NOW.

Since that first meeting of a handful of like-minded feminists in a Livermore, California office, NOW's Tri-Valley chapter has grown to more than 150 members, both women and men.

For 30 years, Tri-Valley NOW has taken action to achieve equality for women. Its members have actively supported women candidates for public office, battled for equal rights and opportunities in the workplace and classroom, written hundreds of letters to editors and legislators, endured the struggle to pass the Equal Rights Amendment and staged countless demonstrations for positive social change.

Tri-Valley NOW looks back on the last 30 years with great pride in their achievements and deep appreciation for their founding mothers. We agree with their statement that ''there is much work to be done and we will continue to strive for NOW's goal of equality for all women.'' NOW has our full support to help achieve this goal.

INTRODUCTION OF H.R. 5162, THE LAW ENFORCEMENT EXPLOSIVE STORAGE ENHANCEMENT ACT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. LANTOS. Mr. Speaker, sometimes it takes a barely averted catastrophe awaken us to potential dangers. Recently, more than 140 pounds of explosive materials were stolen from a law enforcement storage facility in San Mateo, California. This is enough to destroy a small office building or to blow a hole in the Golden Gate Bridge.

Thankfully, police quickly caught the suspects and recovered all of the explosives. However, we cannot and should not be forced to rely on capturing criminals after a theft to keep our communities safe. After learning what happened I immediately contacted my good friend, and Chairman of the House Government Reform Committee Subcommittee on National Security, Emerging Threats and International Relations, CHRIS SHAYS, to hold a hearing in San Mateo. Chairman SHAYS recognized right away the seriousness of this problem and graciously agreed to hold a Subcommittee field hearing on August 2, 2004.

During the course of the hearing, we heard from representatives of law enforcement at the federal, state and local levels, as well as members of the explosives industry. Mr. Speaker, I can honestly say that in the 20-plus years I have been a member of the House of Representatives, this hearing was clearly one of the most informative that I had ever been a part of.

However, I was shocked at the abysmal performance by the Bureau of Alcohol, Tobacco and Firearms (ATF), which is tasked with the responsibility of regulating the sale of explosives in our country. During the hearing, it became quite clear that ATF had absolutely no idea of how many explosive storage sites there are in this country. Given the fact that our country uses about 2.5 million metric tons of explosives every year, the idea of any of it being unaccounted for should concern all of us. Equally troubling was the revelation that there is minimal regulation—and zero enforcement—of the storage of equally, or even more hazardous explosive material by law enforcement agencies, which means that communities across this country face a menace that we need to address right away: large caches of high explosives are being kept in countless locations, with nobody held accountable for their safe-keeping.

Mr. Speaker, this is a September 10th standard for a September 12th world, and it is simply unacceptable. We need uniform federal standards that will be uniformly enforced across the country. I am pleased to report to my colleagues that the Shays-Lantos legislation that we are introducing today creates such standards.

There are obvious and logical reasons for local law enforcement agencies to have explosive materials. For example, a police agency that maintains a bomb squad unit, as many larger departments do, needs a ready supply of material for training purposes. Other legitimate uses include training bomb-sniffing dogs or holding confiscated contraband for evidentiary purposes. No one doubts the legitimate need for local law enforcement agencies to maintain storage facilities, but the lack of any clear guidelines on the manner of storage is very troubling.

At a time when explosives are the preferred weapon of choice of international terrorists, it was alarming to learn of a facility, located just a few miles from the heart of a major metropolitan area, that was as undefended and unprotected as the facility in San Mateo. The stolen materials could have been sold to the highest bidder and used against any target, near or far away. And the same can be said for storage locations nationwide.

To address this shortcoming the Shays-Lantos legislation, H.R. 5162, the Law Enforcement Explosive Storage Enhancement Act, requires every state to submit a list to the Attorney General reporting how many locations are in their respective states. The legislation further requires an inventory to be kept so that the Attorney General is aware of how much explosive material is being stored at these facilities around the country. These changes will allow better monitoring of these dangerous materials.

In addition the Shays-Legislation to create uniform federal regulations to ensure that all local law enforcement agencies are storing their explosives in a safe and secure manner. This includes requiring law enforcement facilities to have a security system that, at a minimum, will include either a video surveillance camera or an alarm system capable of notifying the agency of an unauthorized entry. Mr. Speaker, Chairman SHAYS and I are cognizant of the fact that many of our local police chiefs are facing the tightest budgets they have ever dealt with, and that this requirement could produce a major burden for many local officers. That is why we included a matching grant program to assist law enforcement agencies cover the costs associated with improving their security at their explosive storage sites. However much the cost of improving security at these facilities may be, I can assure you that it is less than the cost of allowing these types of explosive materials to fall into the hands of terrorists.

Mr. Speaker, after listening to the testimony from all of the witnesses, it became increasingly apparent that it would make no sense for the federal government to require law enforcement agencies to have licenses to store high explosives, as private-sector entities are required to do. When private-sector entities that sells high explosives are told to improve storage security or face the prospect of losing their licenses, they will shape up—or else they lose access to the explosives. But law enforcement agencies have no such economic incentives; we're not going to take these materials away from them. So some other form of financial incentive, under federal government control, is called for.

The H.R. 5162 ensures compliance from local jurisdictions by using the enormous power of the Congressional purse. This legislation tasks the Attorney General with inspecting law enforcement storage facilities, and if a facility is found to be in non-compliance with federal regulations, our bill requires the Attorney General to reduce that law enforcement agency's Department of Justice grants by 10%.

Mr. Speaker, Chairman SHAYS and I are introducing this legislation because we want to ensure the safety of this country. The tragedy of September 11, 2001 destroyed the innocence of our nation and opened our eyes to the true threat of terrorism. That awful day revealed that the United States was confronting a "Guns of Singapore" phenomenon. As our colleagues undoubtedly know, during the Second World War, the guns of Singapore, a mighty array of armaments, were fixed in place aiming out to the ocean, defending the island from the expected threat. Instead, the true threat, the actual invasion and the eventual occupation of Singapore, came from the land—and the massive guns were never fired in battle. Likewise, prior to September 11, the United States had not directed its enormous power in the proper direction.

Mr. Speaker, there are many fronts in the international struggle against terrorism. Passage of the H.R. 5162, the Law Enforcement Explosive Storage Enhancement Act, will be a crucial step in this battle, as it will prevent potential terrorists from easily accessing explosive materials stored throughout the country. I urge all of my colleagues to join me in calling for its immediate passage.

HONORING THE PEGGY NOTEBAERT NATURE MUSEUM

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. EMANUEL. Mr. Speaker, I rise to acknowledge the tremendous work being done at one of Chicago's greatest institutions, the Peggy Notebaert Nature Museum, on the occasion of the opening of several exciting new exhibits.

Since its beautiful building opened in Lincoln Park in 1999, the Notebaert Museum has served as a cornerstone for innovative scientific learning and environmental programs, and allowed thousands of visitors to come and see exhibits on the wonders of nature and our environment. And with the opening of "Mysteries of the Marsh," "Istock Family Look-in Animal Lab," "RiverWorks," and "Rooftop Stop and the Nature Museum Greening Project," the numerous educational opportunities the museum provides will be greatly enhanced.

The Peggy Notebaert Nature Museum grew out of the Chicago Academy of Sciences, founded by Robert Kennicott in 1857 as Chicago's first museum. The Great Chicago Fire destroyed many of the original collections, but by 1893 the Matthew Laflin building was constructed which housed the museum's collections for over 100 years. The museum's new building located along the northern Chicago lakefront is an architectural masterpiece worthy of the treasures located within.

Today the Notebaert Museum continues the same tradition of education and enjoyment of the environment that was its original mission. The opening of these new exhibits will, no doubt, be a tremendous success.

Mr. Speaker, I join with the people of the 5th district, indeed all of Chicago, in congratulating the Peggy Notebaert Nature Museum on its continued importance to Chicago and the environmental community. I thank the staff and trustees of the museum for their diligent work and dedication toward making the museum one of the elite learning institutions in the country.

BETHUNE-COOKMAN COLLEGE CENTENNIAL

HON. JOHN L. MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. MICA. Mr. Speaker, I rise today on the 100th anniversary of the founding of the Bethune-Cookman College in Daytona Beach, Florida.

On October 4 , 1904, Dr. Mary McLeod Bethune opened the Daytona Literary and Industrial School for Training Negro Girls in Daytona Beach with 5 pupils, $1.50 in capital and an unwavering faith in God.

Today, that initial investment has grown into a diverse student body of nearly 3,000, an annual budget of $50 million and an endowment of $26 million.

Today, the Bethune-Cookman College Board of Trustees is comprised of national corporate leaders, educators and religious leaders.

In 1923 the school begun by Dr. Bethune merged with the Cookman Institute of Jacksonville, Florida and 1 year later it became affiliated with the United Methodist Church. Today Bethune-Cookman College enjoys and flourishes in its relationship with the Board of Higher Education and Ministry of the United Methodist Church.

In 1931 the school evolved into a junior college and became known as it is today, Bethune-Cookman College.

In its 100-year history the College has had only four presidents: Dr. Mary McLeod Bethune; Dr. James E. Colston; Dr. Richard V.

Moore, Sr.; and Dr. Oswald P. Bronson, Sr. In this 100th year since its founding, Dr. Trudie Kibbe Reed has been appointed by the Board of Trustees to lead Bethune-Cookman College into its second century as the fifth overall and the second female to serve as president.

During this century of service Bethune-Cookman College has earned and maintained institutional and programmatic accreditation. Such adherence to high standards has earned Bethune-Cookman College a world-wide reputation for academic excellence and compassionate service.

Bethune-Cookman College now matriculates students in 37 major areas through six academic schools: business, education, humanities, nursing, science and mathematics, and social sciences. In its 63-year service as a 4-year baccalaureate-degree-granting liberal arts college, more than 12,000 students have graduated to assume leadership roles in their communities and in the global workplace.

Mr. Speaker, as a member of the U.S. House of Representatives representing Florida's 7th Congressional District, I am pleased to honor Bethune-Cookman College on the occasion of Centennial Founder's Day. Today, I join many others in congratulating Bethune-Cookman College on its 100th year since the founding of Dr. Mary McLeod Bethune's vision that has become a great legacy for all of us to share.

LEE RULES OUT ASSASSINATION IN SHOOTING INVESTIGATION

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. TOWNS. Mr. Speaker, I submit the following article for the RECORD:

[From the Taiwan News, Aug. 30, 2004]

LEE RULES OUT ASSASSINATION IN SHOOTING INVESTIGATION

U.S.-based forensic expert Dr. Henry Lee who was investigating the March 19 shooting of President Chen Shui-bian has concluded that the incident was not an assassination attempt.

Lee, who handed his analysis to a Taiwan government official in the U.S. early yesterday, said that he was unable to issue a conclusive report, but advised that his findings in examining the forensic evidence could help criminal investigators in their own probe.

''An important finding on the bullets, one made of copper and the other of lead, is that they both have clear barrel marks,'' Lee said to reporters in New York after he submitted his 130-page report and a CD containing 150 photos to Andrew Hsia, director general of Taipei Economic and Cultural Office in New York, Saturday morning local time.

''This means a chance for clearing up the case, as long as (criminal investigators) can find out the right (gun) barrel,'' Lee said. ''This case was not a political assassination because (in such a case) a more powerful weapon than a homemade pistol would have been used,'' he told reporters.

He further advised that criminal investigators in Taiwan should crackdown on illegal firearms and ''check (the barrel marks) of all seized firearms to find the gun.''

His findings could also help in locating the factory at which the illegal gun was made, the forensic expert said, adding that he was still uncertain whether or not the two bullets were fired from a single gun or from two guns with the same make of barrel.

The analysis Lee presented in New York yesterday was the final report following four months of advanced scientific examinations carried out by him and his colleagues.

According to Lee, his analysis of the evidence had helped him to reach a more precise conclusion regarding the location of the ''hot zone'' area from which the shots were fired.

He acknowledged that on his trip to Taiwan earlier this year he had had difficulty solving the case because of the shooter's use of a homemade handgun. The chance of clearing the case would be improved once criminal investigation agents could find the gun, Lee said at the time.

Lee made a three-day trip to Taiwan in April at the invitation of State Public Prosecutor General Lu Ren-fa, who had hoped to solve the case before his retirement in September.

Speaking with reporters in New York, Lee stressed that his investigation was free of any political influence. ''We'll let the evidence speak (for itself),'' he said. ''The report is presented according to evidence and has nothing to do with political disputes or (the shooter's) motive, neither is it involved with the ongoing criminal investigation,'' he said.

He further noted that it would be better if the details of his analysis were published by Lu or by the Taiwan criminal investigative authorities.

Lee sealed the report before presenting it to Hsia, who is responsible for delivering it to Taipei. Prosecutor General Lu is anticipating that he would receive the document today.

Commenting on the ''truth commission'' proposed by the opposition parties in Taiwan to conduct an independent probe into the incident, Lee said that he hopes ''the committee will examine the truth (found by forensic evidence) and give the criminal investigators more room to solve the case.''

DEFENDING BOEING

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. DICKS. Mr. Speaker, among the many economic challenges our Nation faces at this time is the impact of unfair foreign trading practices, and I would like to speak today about the direct and substantial subsidies that continue to be provided to the European consortium, Airbus Industrie, costing more and more American manufacturing jobs every year.

The time has come for the American government to recognize the damage that has occurred to our economy, and to take firm action to curtail what I believe is both unfair and illegal foreign competition.

These subsidies from four European governments, which include aircraft launch assistance, capital injections, and debt forgiveness, have enabled Airbus to develop and market a range of commercial airliners at well below cost. Unless this practice is checked, I am afraid that it will drive the Boeing Company, Airbus' only remaining worldwide competitor and our largest net-exporter, out of the commercial airline manufacturing business altogether.

Most Americans are familiar with the Boeing Company, but I would like to remind my colleagues that Boeing employs more than 150,000 American workers, including about 54,000 in the civil aircraft industry. Last year it purchased about $24 billion in supplies and services from more than 26,000 U.S. companies located in all 50 States. It is one of the largest employers in the country and our Nation's largest single exporter of manufactured goods by value.

But you may not be as familiar with the background of Airbus. Over 30 years ago, Airbus was founded by a European consortium of French, German, and later Spanish and British companies to compete in the large commercial aircraft industry with U.S. companies. Unable to secure commercial funding for the venture, European governments stepped up to provide about $1 billion in loans and aid to establish the company.

More than 20 years later, in 1992, Airbus had grown to take about one-fifth of the commercial airplane market. But despite its significant growth and share of the market, European governments continued to provide enormous subsidies to the company to ensure it had an edge against the remaining U.S. competitors, Boeing and McDonnell Douglas.

In an attempt to address these subsidies, an agreement was signed in 1992 between the United States and the European Union on trade in large civil aircraft. This agreement limits direct government support of new aircraft to no more than one-third of the total development costs, with the further agreement that these subsidies would be reduced over time.

Yet over the last 12 years, the European Union has used this one-third limit as its base figure for determining how much of a subsidy to provide rather than to reduce the amount of the subsidy they provide.

As a result, Airbus has grown to dominate the large commercial aircraft industry, outdelivering Boeing for the first time in history in 2003. As recently as 1999, Boeing delivered 67 percent of new planes; in 2003, that figure dropped to 47.5 percent. And the comparative value of the planes ordered has dwindled even more significantly. In 2003, the value of Airbus's orders was more than twice as much as Boeing's.

The effect has been disastrous on U.S. workers and the American economy. More than 60,000 jobs have been lost in the commercial aviation industry in the United States since 1999. Many thousands of these jobs were lost in the Pacific Northwest, but the effects have been felt by suppliers and facilities throughout the country.

What has been responsible for the meteoric rise of Airbus? Their ability to provide a good product at below-market prices because of the generous subsidies they continue to receive from European governments.

These subsidies take several forms. One is through direct capital injections from European governments. Between 1987 and 1994, for example, the French government provided $4.5 billion in fresh capital to Aerospatiale, a member of EADS which owns 80 percent of Airbus, to offset continuing losses. As recently as 1998, the French government transferred its 46 percent share of Dassault Aviation, worth approximately 880 million euros, to Aerospatiale.

My colleagues, can you imagine the U.S. Congress giving the Boeing Company $4.5 billion outright to offset commercial failures? Boeing has never received this kind of cash payout from our government.

Another form of subsidy commonly used by European governments is to forgive the debt on loans provided by member governments. Between 1987 and 1989, the German government settled more than two-thirds of Deutsche Airbus's state-guaranteed loans, worth approximately 3 billion deutschmarks at the time. Between 1997 and 1998, the German government completely forgave 7.4 billion deutschmarks in outstanding launch aid and other debt granted to Airbus. That is more than 4 billion U.S. dollars in debt the German government forgave.

What venture could possibly fail when so much debt is just written off? Boeing has never received such outrageously generous treatment by its creditors, nor do I expect that it ever will.

Although these two kinds of subsidies I have described are very serious, they pale in comparison to the launch aid that Airbus received to design and produce new aircraft products. During the past 30 years, European governments have provided more than $15 billion in the form of low- and no-cost loans to Airbus for the specific purpose of developing new aircraft lines. If you applied a commercial rate of interest over time to these ''loans'', the commercial value would be some $40 billion. Airbus' parent companies do carry $5 billion in debt on their books. The ''missing'' $35 billion is the value of the government subsidy.

Public documents from the French Senate provide the best explanation that I have seen of what is particularly nefarious about launch aid:

> Launch aid is only repaid if development and production lead to commercial success. If the project fails, agreement provides that no reimbursement is owed. Indeed the government lender assumes the opportunity costs of launch aid for a period of time that varies, but depends mainly on the project's commercial success and timetable.

The bottom line is that Airbus only has to pay back these multi-billion dollar loans if their product turns a profit. Should an airplane design fail to gain support in the marketplace, which has happened often in the past, Airbus doesn't have to pay back one euro that it has borrowed.

Had Airbus been forced to seek these funds from commercial lenders, as Boeing does when it seeks to design and produce a new model, it would have cost them $35 billion more.

The Europeans do not even try to hide just how critical this launch aid subsidy is to Airbus. In 2003, British Prime Minister Tony Blair told the House of Commons, ''As a result of launch aid, Airbus is today in a position where it can take over the leadership of the large aircraft market from Boeing in the United States.''

In 1999, the European Commission noted just how heavily Airbus relies on launch aid, stating:

> Aerospatiale could not finance the costs connected with the development of the Airbus A340–500/600 by itself or with the help of bank loans . . . Accordingly, if it were to finance the development costs of the A340–500/600 solely from its own capital (or through bank loans), it would seriously weaken the financial structure of the company.

The 1992 agreement limits the amount of launch aid to 33 percent of the total costs of design and production. But although the agreement was intended to lead to a reduction in launch aid, the Europeans have used it as a justification to provide exactly 33 percent of the funding to all new aircraft designs over the past 12 years.

Contrarily, Boeing has not received even one dollar in aid from the U.S. government to design and produce a new model of aircraft. When Boeing wants to launch a new plane, it must either come up with its own cash or borrow the money from a commercial lender.

Airbus's newest project, the A380, is an excellent example of how their system works. The A380 is one of the riskiest ventures in the history of civil aviation. Scheduled for completion in 2006, the A380 will carry up to 555 people and have a range of 8,000 nautical miles. But significant questions surround how well this super-jumbo aircraft will be accepted by the airlines. Some analysts have questioned whether the A380 will fit into a marketplace that is trending away from the traditional hub-and-spoke model, which relies on large aircraft, to more point-to-point flights, which utilize smaller, longer-ranged planes.

Regardless of the risk, European governments have committed $3.7 billion in launch aid to the A380. So, should Airbus's assumptions about the market prove to be off the mark, it will not be required to pay back the money.

Further, Airbus will also receive more than $1.7 billion in A380–infrastructure-related production support. France, Germany, Spain, and the United Kingdom are funding major upgrades of existing facilities or new construction projects at almost all of these sites. For example, the City of Hamburg drained part of the river Elbe so that Airbus could expand its existing facilities to accommodate A380 assembly and production. In Toulouse, the government financed the construction of a huge, new assembly site. There are several other examples, but I think it is enough to say that the federal and local governments in Europe are offering significant benefits to the A380 project.

My colleagues may be aware of Airbus's ongoing media blitz, which is spreading considerable disinformation about the level of their subsidization and calling into question whether Boeing profits from the same sort of program.

The first red herring I would like to address is Airbus's faulty claim that Boeing's commercial aviation division benefits unfairly from research and development contracts it receives from the Department of Defense. I have served on the Defense Appropriations Subcommittee for 26 years, and I can tell you that the amount of R&D benefits transferred from defense research to the commercial side is minimal. Indeed, in my experience the benefits travel in the other direction.

And even if there were benefits accrued, Airbus and its parent companies—EADS and BAE Systems—get just as much as Boeing. Last year, Boeing received defense R&D contracts worth about $4.6 billion. Comparatively, Airbus, EADS, and BAE systems received $4.3 billion from U.S. and European governments for defense R&D, a negligible difference.

Airbus also likes to claim that my home State of Washington is providing ''launch aid'' in the form of a $3.2 billion tax program for the Boeing Company's newest project, the 7E7. This claim couldn't be further from the truth. The tax break is in the form of a reduction in the State's business and occupation tax, which is charged against the sale of a product. As we know, launch aid provided to Airbus is an upfront loan the company receives before the pencil is even put to paper; conversely, this tax benefit only comes when a plane is actually sold and payment received. In no way can this tax benefit be considered the equivalent of launch aid.

Further, this tax benefit is not specific to any company or product, unlike the loans and infrastructure improvements funded by the Europeans. Suppliers to both Boeing and Airbus will qualify for some for the tax cuts provided by the Washington State Legislature. Airbus, itself, could qualify for the tax cut should it place a facility in Washington State. I do not think Boeing would receive the same subsidized loans, debt forgiveness, or capital infusions should it put a plant in France, Spain, or Germany.

The final myth I wish to dispel is Airbus' claim that it has a major industrial presence in the United States. Last year, Airbus produced a brochure that claimed that more than 40 percent of the content of its planes was from the U.S. and that it had more than 800 U.S. suppliers and sustained 100,000 jobs.

This brochure was nothing more than a piece of marketing fiction. The U.S. Department of Commerce analyzed this brochure and other data and found that the number of U.S. suppliers is likely closer to 250, and further found that the number of jobs claimed was impossible to justify. In fact, Commerce found that the only concrete number that it could verify was the number of Airbus employees in the U.S.: less than 500.

Conversely, Boeing really is an American company. No one argues that it employs 150,000 American workers and has thousands of suppliers and vendors from every State in the Union. And Boeing assembles most of its components and all of its aircraft here in the United States. The same cannot be said for Airbus.

European Commissioners have already expressed their intent to continue to provide enormous subsidies to Airbus for the foreseeable future, driving down prices and taking more and more market share from Boeing. We cannot let this continue. The future of the commercial aircraft industry is at stake, as are the jobs of 54,000 Boeing commercial aircraft employees and 26,000 suppliers.

This week, United States Trade Representative Robert Zoellick is meeting here in Washington with European Trade Commissioner Pascal Lamy. A key issue on the table will be launch aid and the other subsidies that Airbus receives from European governments.

Should the EU not agree to proceed with discussions to end these subsidies, I believe that the United States should file a trade case with the World Trade Organization to end them. Airbus and the Europeans claim that the U.S. and the State of Washington provide similar subsidies—let them file their case. In my judgment, the law is clear, and we will win in the WTO.

Regardless of the outcome of this meeting between Ambassador Zoellick and Commissioner Lamy, I believe the United States should immediately withdraw from the 1992 Agreement on Trade in Large Civil Aircraft. This agreement was designed to allow Airbus to compete with larger and more establish U.S. companies; now that Airbus is the top dog, this agreement has run its course. It

should no longer be allowed to serve as a legal justification for European launch aid.

I urge my colleagues to help me defend one of the largest employers in the United States and the largest exporter in the Nation from what I believe to be Airbus' true agenda—the elimination of commercial aircraft production in the United States. We must not allow this to happen.

HONORING THE APPOINTMENT OF JIM MORGO AS SUFFOLK COUNTY COMMISSIONER OF ECONOMIC DEVELOPMENT

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. ISRAEL. Mr. Speaker, I rise today to honor Jim Morgo, who has exceptionally served the people of Long Island, as an affordable housing advocate. I also wish to congratulate him on his appointment as the Commissioner of Economic Development for Suffolk County. Jim has served as the President of the Long Island Housing Partnership for over 17 years. During this time, he has become Long Island's leading voice in support of both the preservation and production of housing for our region's working families.

The Long Island Housing Partnership LIHP is a private, not-for-profit organization created by Long Island's business, religious, educational and professional leaders to address the region's growing housing crisis. This partnership is dedicated to providing housing opportunities for those who could not otherwise afford decent and safe housing. The LIHP realizes its purpose through mortgage counseling, housing development, and promotion of affordable ownership and rental units for low and moderate income Long Islanders. Created in 1988, Jim Morgo was it's first President and he played a critical role in placing the LIHP at the forefront of all of the area's debates affecting affordable housing and community development.

It is impossible to measure the number of families Jim Morgo has helped and lives he has touched as he worked to develop affordable homes, and create new and innovative ways to enable working families to achieve the dream of homeownership.

I am sure that in his new role, Commissioner Morgo will continue to find creative means to help low-income families achieve the dream of homeownership, help our young families purchase their first home in the neighborhood where they grew up, and expand community development opportunities for the entire Suffolk County Community. I congratulate him on his appointment, thank him for his service, and look forward to working with him in the years to come.

APPOINTMENT OF CONFEREES ON H.R. 4200, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

SPEECH OF

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. REYES. Mr. Speaker, I submit for the RECORD the text of the Ortiz amendment as agreed to by the House Armed Services Committee on May 12, 2004 and as was to be printed in the House record as agreed to by a colloquy between Representative HUNTER and myself on May 20, 2004. The text of the Ortiz amendment follows:

The committee understands that the Secretary of Defense purchases 'bio-chem protective suits' from the National Center for Employment of the Disabled. It is also the committee's understanding that the NCED is an entity recognized under the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c), as an entity that creates jobs and training opportunities for people who are blind or who have other severe disabilities.

IN SUPPORT OF THE DRIVER'S LICENSE IMPROVEMENT AND SECURITY ACT OF 2004

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. MORAN of Virginia. Mr. Speaker, today we are pleased to introduce the Driver's License Improvement and Security Act of 2004, or DLISA, which will create a six state pilot project to standardize and modernize state-issued driver's licenses and identification cards. Two years ago I joined my colleague, TOM DAVIS, in sponsoring legislation to create nationwide standards for driver's licenses and identification cards.

Our previous attempt to address fundamental flaws in the driver's license system may have been rather ambitious, but existing vulnerabilities in our identification system present a clear threat to our Nation's security and allow criminals to subvert our laws. A pilot project will allow the Secretary of Transportation and participants in the program to work out interoperability and logistical concerns on a smaller and more manageable scale.

Today's legislation is the product of several years of hard work, input and research by state motor vehicle authorities, policy, technology, and identification security experts. As my colleagues prepare to consider comprehensive legislation to overhaul our national intelligence institutions, I strongly urge them to consider the following question: Why has it taken so long for us to repair a gaping hole in our identification system that leaves us vulnerable to criminals and terrorists? Reform should begin with the obvious—basic vulnerability issues.

I agree with the 9/11 Commission's conclusion that institutional national intelligence reform is necessary, but I am dismayed by the lack of attention being paid to chronic and correctable shortcomings in our driver's license and ID card system. The legislative solution we are proposing today retains traditional state authority over non-commercial driver's licenses, but recognizes that disparate standards, outmoded technologies and inadequate security features create risks that are national in scope and therefore justify Federal resources and technical assistance.

A driver's license is a dangerous tool in the hands of a criminal. It allows them to easily travel on our roads, open bank accounts, rent vehicles, and take domestic flights. The driver's license has come to represent more than authorization to operate a motor vehicle; it imparts a stamp of legitimacy and is often taken as unquestionable proof of identity. Possession of a driver's license allows criminals to easily travel and blend into the population.

Problems in our identification system were evident before 9/11. A thriving criminal enterprise learned to exploit the lack of standardization, the hodgepodge of loosely enforced rules, and antiquated security features, to serve a growing demand for fake licenses. The black market in fake licenses was, and remains, quite lucrative, commonly yielding $2,000 for a single fake license.

Many of the 9/11 hijackers used black market ''brokers'' to illegally obtain driver's licenses. 13 of the 19 hijackers were able to obtain driver's licenses or non-driver ID cards. Like illegal gun dealers, those who profit from this illicit racket ask few questions and care little about the consequences of their actions.

Since we first introduced legislation to remedy this problem, two reputable commissions have called for Federal government action. The Markle Foundation Task Force on National Security in the Information Age and the 9/11 Commission recommended that the Federal government should take action to standardize and improve the integrity of our driver's license and ID card system. Since the 9/11 commission's report was released, other legislative proposals have been unveiled, but none of them would fully implement the biometric and smart card technologies recommended by the Markle Task force and 9/11 Commission. Our bill takes full advantage of available technologies and addresses specific logistical, interoperability and policy concerns revealed by countless studies and reports on the subject over a number of years. DLISA draws upon these findings and balances some outstanding concerns about privacy, states' rights and the need for greater uniformity.

The technology embraced in our bill is far from nascent. Private companies and government agencies currently utilize smart card and biometric technologies in their ID cards. Smart cards have been in use for years in the military with the Common Access Card, or CAC. Congress sanctioned the use of smart card biometric technology in the USVISIT visa program.

DLISA will not create a national ID card. Instead, it preserves state authority and takes advantage of the existing state motor vehicle infrastructure and system of linked networks. In fact, DLISA is a step back from earlier congressional legislation. Congress created uniform standards for commercial licenses when it passed the Commercial Motor Vehicle Safety Act of 1986, paving the way for the Commercial Driver's License Information System, or CDLIS. Congress has also recognized the need to assist state licensing authorities in a non-commercial context when it created the National Driver Register; which, like this bill,

was implemented first as a pilot program. DLISA is entirely voluntary, only states that wish to participate in the pilot project must adhere to the guidelines. In setting the authorization amount, we relied on the states own cost projections. States will not incur any expense under DLISA.

Of course there are many out there who fear change. Civil libertarians, conspiracy theorists and absolutists will attempt to characterize DLISA as a threat to individual privacy. In fact the opposite is true. By reducing identity theft (clearly a privacy concern), controlling access to personal data through encryption and proper regulations, and making it easier to create a digital paper trail on government employees who access your data, smart cards will actually reduce privacy violations.

Nor will my bill adversely harm immigrants. Congress has long been trying to improve the system to verify worker eligibility, and smart driver's licenses will make a quantum leap in the efficiency of that system, which will in turn make it harder for illegal aliens to get jobs with honest employers. Many people consider this an undesirable side effect of improving the driver's licensing system; after all, the vast majority of immigrants are hard-working people trying to make better lives for their families. The solution, however, is to change the rules governing immigration, not to preserve the fraud in the ID system.

Finally, DLISA does not allow the government to track people's movements. Smart cards do not work with satellites to track your movements. The best government could do in tracking your movements is maintain records of where and when you are asked to show your license, something it already does by writing down your driver's license number. For example, when you enter a government building for a meeting, the security guard may record your information in a log.

It is difficult to completely allay the concerns of civil libertarians and privacy advocates, lest we do away with all forms of identification. But this legislation will not create invasion of privacy risks that do not already exist today. It will, however, significantly reduce the risk of identity theft, and correct current widespread abuses in the system. As an added benefit, the technology will make it easier for law enforcement officials to do their job by eliminating wasted time filling out tickets and paperwork, but it will not magically transform every law enforcement officer or civil servant into a voyeur or jackbooted thug bent on harassing you at every turn.

Taken as a whole, the potential benefits of smart licenses far outweigh the potential risks. The vast majority of Americans understand that privacy is a tradeoff rather than an absolute, and will accept the risks in exchange for the benefit—added security.

I urge my colleagues to cosponsor this bill, and give this issue the urgent attention required to correct serious flaws in our driver's licensing and ID card system.

Daily Digest

HIGHLIGHTS

House Committees ordered reported 18 sundry measures.

Senate

Chamber Action

Routine Proceedings, pages S9995–S10194

Measures Introduced: Thirteen bills and one resolution were introduced, as follows: S. 2867–2879, and S. Con. Res. 139. **Page S10061**

Measures Reported:

S. Res. 424, designating October 2004 as "Protecting Older Americans From Fraud Month".

S. 2195, to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors, with an amendment in the nature of a substitute.

S. 2843, to make technical corrections to laws relating to Native Americans, with amendments.

Page S10059

Measures Passed:

Welfare Reform Extension Act: Senate passed H.R. 5149, to reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2005, clearing the measure for the President. **Pages S10180–83**

Highway Trust Fund Extension: Senate passed H.R. 5183, to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century, clearing the measure for the President.

Pages S10183–85

Safe Water Drinking Act Amendment: Senate passed H.R. 2771, to amend the Safe Drinking Water Act to reauthorize the New York City Watershed Protection Program, clearing the measure for the President. **Page S10185**

Coastal Wetland Conservation Projects Extension: Senate passed S. 2495, to strike limitations on funding and extend the period of authorization for certain coastal wetland conservation projects.

Pages S10185–86

National Wildlife Refuge Volunteer Act: Senate passed H.R. 2408, to amend the Fish and Wildlife Act of 1956 to reauthorize volunteer programs and community partnerships for national wildlife refuges, clearing the measure for the President. **Page S10186**

Improving Access to Assistive Technology for Individuals with Disabilities Act: Committee on Health, Education, Labor, and Pensions was discharged from further consideration of H.R. 4278, to amend the Assistive Technology Act of 1998 to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and the bill was then passed, after agreeing to the following amendment proposed thereto:

Pages S10186–92

Inhofe (for Gregg) Amendment No. 3943, in the nature of a substitute. **Page S10192**

Honoring Duke Ellington: Senate agreed to H. Con. Res. 501, honoring the life and work of Duke Ellington, recognizing the 30th anniversary of the Duke Ellington School of the Arts, and supporting the annual Duke Ellington Jazz Festival. **Page S10192**

State Justice Institute Reauthorization Act: Committee on the Judiciary was discharged from further consideration of H.R. 2714, to reauthorize the State Justice Institute, and the bill was then passed, after agreeing to the following amendment proposed thereto: **Page S10192**

Inhofe (for Leahy/Hatch) Amendment No. 3944, to extend the authorization of the Bulletproof Vest Partnership Grant Program. **Page S10192**

National Intelligence Reform Act: Senate continued consideration of S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, taking action on the following amendments proposed thereto: **Pages S9997, S10000**

Adopted:

Graham (FL) Amendment No. 3797, to improve the authorities with respect to the national intelligence centers. **Pages S10000–04**

McCain Amendment No. 3806, to improve the transition between Presidential administrations. **Pages S10007–09**

Collins (for Voinovich) Amendment No. 3823, to improve the financial disclosure process under the Ethics in Government Act of 1978. **Pages S10025–26**

Rockefeller/Hutchison Amendment No. 3815, to improve and provide for the review of intelligence estimate and products. **Pages S10038–40**

Lieberman (for McCain) Amendment No. 3942, to provide provisions related to the role of diplomacy, foreign aid, and the military in the war on terrorism. **Pages S10040–41**

Warner/Stevens Modified Amendment No. 3781, to modify the requirements and authorities of the Joint Intelligence Community Council. **Pages S10041–44**

Rejected:

Hollings Amendment No. 3795, in the nature of a substitute. (By 82 yeas to 7 nays (Vote No. 193), Senate tabled the amendment.) **Pages S10033–38**

Lautenberg Amendment No. 3802, to stop corporations from financing terrorism, (By 47 yeas to 41 nays (Vote No. 194), Senate tabled the amendment.) **Pages S10016–25, S10026–29, S10038**

Pending:

Collins Amendment No. 3705, to provide for homeland security grant coordination and simplification. **Page S9997**

Lautenberg Amendment No. 3767, to specify that the National Intelligence Director shall serve for one or more terms of up to 5 years each. **Page S9997**

Kyl Amendment No. 3801, to modify the privacy and civil liberties oversight. **Pages S10004–07**

McCain/Lieberman Amendment No. 3807, to develop a strategy for combining terrorist travel intelligence, operations, and law enforcement. **Pages S10009–11**

Feinstein Amendment No. 3718, to improve the intelligence functions of the Federal Bureau of Investigation. **Pages S10011–16**

Stevens Amendment No. 3839, to strike section 201, relating to public disclosure of intelligence funding. **Pages S10029–33**

Ensign Amendment No. 3819, to require the Secretary of State to increase the number of consular officers, clarify the responsibilities and functions of consular officers, and require the Secretary of Homeland Security to increase the number of border patrol agents and customs enforcement investigators. **Page S10038**

Reid (for Schumer) Amendment No. 3887, to amend the Foreign Intelligence Surveillance Act of 1978 to cover individuals, other than United States persons, who engage in international terrorism without affiliation with an international terrorist group. **Pages S10044–47**

Reid (for Schumer) Amendment No. 3888, to establish the United States Homeland Security Signal Corps to ensure proper communications between law enforcement agencies. **Pages S10044–47**

Reid (for Schumer) Amendment No. 3889, to establish a National Commission on the United States-Saudi Arabia Relationship. **Pages S10045–47**

Reid (for Schumer) Amendment No. 3890, to improve the security of hazardous materials transported by truck. **Pages S10046–47**

Reid (for Schumer) Amendment No. 3891, to improve rail security. **Pages S10046–47**

Reid (for Schumer) Amendment No. 3892, to strengthen border security. **Pages S10046–47**

Reid (for Schumer) Amendment No. 3893, to require inspection of cargo at ports in the United States. **Pages S10046–47**

Reid (for Schumer) Amendment No. 3894, to amend the Homeland Security Act of 2002 to enhance cybersecurity. **Pages S10047**

A unanimous-consent agreement was reached providing for further consideration of the bill at 9:30 a.m., on Friday, October 1, 2004. **Pages S10192–93**

Legislative Information Availability—Agreement: A unanimous-consent agreement was reached providing that the Committee on Rules and Administration be discharged from further consideration of S. Res. 360, expressing the sense of the Senate that legislative information shall be publicly available through the Internet, and the resolution be placed on the Senate calendar. **Page S10193**

Nominations Confirmed: Senate confirmed the following nominations:

8 Air Force nominations in the rank of general.

23 Army nominations in the rank of general.

2 Marine Corps nominations in the rank of general.

33 Navy nominations in the rank of admiral.

Routine lists in the Air Force, Army, Marine Corps, Navy. **Pages S10193–94**

Messages From the House: **Pages S10058–59**

Measures Placed on Calendar: **Page S10059**

Measures Read First Time: **Page S10059**

Executive Reports of Committees: **Pages S10059–61**

Additional Cosponsors: **Pages S10061–63**

Statements on Introduced Bills/Resolutions: **Pages S10063–75**

Additional Statements: Pages S10057–58

Amendments Submitted: Pages S10075–S10177

Authority for Committees to Meet: Pages S10177–78

Privilege of the Floor: Page S10178

Record Votes: Two record votes were taken today. (Total–194) Pages S10037–38

Adjournment: Senate convened at 9:30 a.m., and adjourned at 7:33 p.m., until 9:30 a.m., on Friday, October 1, 2004. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S10193.)

Committee Meetings

(Committees not listed did not meet)

NOMINATIONS

Committee on Armed Services: Committee ordered favorably reported the nominations of Peter Cyril Wyche Flory, of Virginia, to be an Assistant Secretary of Defense for International Security Policy, and 5,851 nominations in the Army, Navy, Air Force, and Marine Corps.

INTERNET GOVERNANCE AND SECURITY

Committee on Commerce, Science, and Transportation: Subcommittee on Communications concluded an oversight hearing to examine the Internet Corporation for Assigned Names and Numbers, focusing on security of Internet Root Servers and the Domain Name System (DNS), after receiving testimony from David A. Gross, U.S. Coordinator for International Communications and Information Policy, Bureau of Economic and Business Affairs, Department of State; John M.R. Kneuer, Deputy Assistant Secretary of Commerce for Communications and Information; Pat Morrisse, Security Director, Law Enforcement Intelligence, U.S. Secret Service, Department of Homeland Security; Paul Twomey, Internet Corporation for Assigned Names and Numbers, and Bill Manning, University of Southern California Information Service Institute, both of Marina del Rey, California; and Aristotle Balogh, VeriSign, Inc., Washington, D.C.

LOW-LEVEL RADIOACTIVE WASTE

Committee on Energy and Natural Resources: Committee concluded an oversight hearing to examine issues related to the disposal availability of low-level radioactive waste, focusing on the requirements of the Low-Level Radioactive Waste Policy Act (P.L. 96–573), and commercial disposal sites, after receiving testimony from Christine Gelles, Director, Office of Commercial Disposition Options, and Edward G. McGinnis, Director, Office of Global Radiological Threat Reduction, National Nuclear Security Administration, both of the Department of Energy; Robin M. Nazzaro, Director, Natural Resources and Environment, Government Accountability Office; and Alan Pasternak, California Radioactive Materials Management Forum, Lafayette.

NOMINATIONS

Committee on Foreign Relations: on September 29, 2004, Committee concluded a hearing to examine the nominations of Ryan C. Crocker, of Washington, to be Ambassador to the Islamic Republic of Pakistan, Marcie B. Ries, of the District of Columbia, to be Ambassador to the Republic of Albania, Catherine Todd Bailey, of Kentucky, to be Ambassador to the Republic of Latvia, who was introduced by Senators McConnell and Bunning, and Douglas Menarchik, of Texas, to be an Assistant Administrator of the United States Agency for International Development, after each nominee testified and answered questions in their own behalf.

COLLEGE SAVINGS PLANS

Committee on Governmental Affairs: Subcommittee on Financial Management, the Budget, and International Security concluded an oversight hearing to examine Section 529 College Savings Plans, focusing on levels of fees, quality of plan disclosure, state tax treatment and broker sales practices, after receiving testimony from Steven T. Miller, Commissioner, Tax Exempt and Government Entities Division, Internal Revenue Service, Department of the Treasury; Ernesto A. Lanza, Senior Associate General Counsel, Municipal Securities Rulemaking Board; Michael A. Ablowich, New Hampshire State Treasurer, Concord, on behalf of the National Association of State Treasurers; Jacqueline T. Williams, Ohio Tuition Trust Authority, Columbus, on behalf of the College Savings Plan Network; Martin M. Noven, Office of the Illinois State Treasurer, Springfield; Richard O. Davis, Utah Higher Education Assistance Authority, Salt Lake City; Mary L. Schapiro, NASD, New York, New York; Daniel McNeela, Morningstar, Inc., Chicago, Illinois; and Mercer E. Bullard, Fund Democracy, Inc., Oxford, Mississippi.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items:

S. 1635, to amend the Immigration and Nationality Act to ensure the integrity of the L–1 visa for intracompany transferees;

S. 2195, to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating

to steroids and steroid precursors, with an amendment in the nature of a substitute;

S. Res. 424, designating October 2004 as "Protecting Older Americans From Fraud Month"; and

The nominations of Micaela Alvarez, to be United States District Judge for the Southern District of Texas, Keith Starrett, to be United States District Judge for the Southern District of Mississippi, Raymond L. Finch, to be Judge for the District Court of the Virgin Islands, David E. Nahmias, to be United States Attorney for the Northern District of Georgia, Richard B. Roper III, to be United States Attorney for the Northern District of Texas, Lisa Godbey Wood, to be United States Attorney for the Southern District of Georgia, Ricardo H. Hinojosa, of Texas, to be Chair, Michael O'Neill, of Maryland, to be a Member, and Ruben Castillo, of Illinois, to be a Member, all of the United States Sentencing Commission, and William Sanchez , of Florida, to be Special Counsel for Immigration-Related Unfair Employment Practices, Department of Justice.

NOMINATIONS

Committee on Veterans Affairs: Committee concluded a hearing to examine the nominations of Mary J. Schoelen, of the District of Columbia, who was introduced by Senator Rockefeller, and William A. Moorman, of Virginia, who was introduced by Senator Graham (SC), each to be a Judge of the United States Court of Appeals for Veterans Claims, and Robert Allen Pittman, of Florida, to be an Assistant Secretary of Veterans Affairs for Human Resources and Administration, after the nominees testified and answered questions in their own behalf.

House of Representatives

Chamber Action

Measures Introduced: 16 public bills, H.R. 5185–5200; and; 5 resolutions, H. Con. Res. 506–507, and H. Res. 810, 812–813 were introduced. **Pages H7944–45**

Additional Cosponsors: **Page H7945**

Reports Filed: Reports were filed today as follows:

H. Res. 811, providing for the consideration of H.R. 5183, to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century (H. Rept. 108–710);

H.R. 5107, to protect crime victims' rights, to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases (H. Rept. 108–711);

S. 551, to provide for the implementation of air quality programs developed in accordance with an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation (H. Rept. 108–712, Pt. 1);

H.R. 1630, to revise the boundary of the Petrified Forest National Park in the State of Arizona, amended (H. Rept. 108–713);

H.R. 4817, to facilitate the resolution of a minor boundary encroachment on lands of the Union Pacific Railroad Company in Tipton, California, which were originally conveyed by the United States as part of the right-of-way granted for the construction of transcontinental railroads, amended (H. Rept. 108–714); and

H.R. 3982, to direct the Secretary of Interior to convey certain land held in trust for the Paiute Indian Tribe of Utah to the City of Richfield, Utah (H. Rept. 108–715). **Pages H7943–44**

Speaker: Read a letter from the Speaker wherein he appointed Representative Miller of Florida to act as Speaker Pro Tempore for today. **Page H7865**

Chaplain: The prayer was offered today by Rev. William G. Alvey, Pastor, Park United Methodist Church in Madison, Ohio. **Page H7865**

Surface Transportation Extension Act, Part V: The House passed H.R. 5183, to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century, by a recorded vote of 409 ayes to 8 noes, Roll No. 481. **Pages H7868, H7874–87**

Agreed to make a technical correction to the bill. **Page H7898**

Rejected the DeFazio motion to recommit the bill to the Committee on Transportation & Infrastructure with instructions to report the bill back to the House promptly with an amendment, by a yea-and-nay vote of 199 yeas to 218 nays, Roll No. 480. **Pages H7884–86**

H. Res. 807, waiving a requirement of clause 6(a) of rule XIII with respect to the same day consideration of certain resolutions reported by the Rules Committee, was agreed to by voice vote. **Pages H7868–69**

H. Res. 811, providing for consideration of the bill was agreed to by voice vote. **Pages H7869–74**

Marriage Protection Amendment: The House failed to pass H.J. Res. 106, proposing an amendment to the Constitution of the United States relating to marriage, by a 2/3 yea-and-nay vote of 227 yeas to 186 nays, Roll No. 484. **Pages H7895–H7934**

H. Res. 801, the rule providing for consideration of the resolution was agreed to by voice vote. **Pages H7888–95**

Suspensions—Proceedings Postponed: The House agreed to suspend the rules and pass the following measures which were debated yesterday, September 29:

Reauthorizing the Temporary Assistance for Needy Families block grant program: H.R. 5149, to reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2005, by a 2/3 yea-and-nay vote of 416 yeas with none voting "nay", Roll No. 482; **Page H7887**

Department of Veterans Affairs Nurse Recruitment and Retention Act of 2004: H.R. 4231, amended, to provide for a pilot program in the Department of Veterans Affairs to improve recruitment and retention of nurses, by a 2/3 yea-and-nay vote of 411 yeas to 1 nay, Roll No. 483; **Pages H7887–88**

Honoring the life and work of Duke Ellington: H. Con. Res. 501, honoring the life and work of Duke Ellington, recognizing the 30th anniversary of the Duke Ellington School of the Arts, congratulating Blue Note records on its 65th anniversary and Down Beat Magazine on its 70th anniversary, and supporting the annual Duke Ellington Jazz Festival, by a 2/3 yea-and-nay vote of 391 yeas with none voting "nay", Roll No. 485; and **Page H7934**

Honoring the United Negro College Fund on the occasion of the Fund's 60th anniversary: H. Res. 792, honoring the United Negro College Fund on the occasion of the Fund's 60th anniversary, by a 2/3 yea-and-nay vote of 386 yeas with none voting "nay", Roll No. 486. **Pages H7934–35**

Meeting Hour: Agreed that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Monday, October 4 for Morning Hour debate and 2 p.m. for legislative business. **Page H7938**

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, October 6. **Page H7938**

Discharge Petition: Representative Edwards moved to discharge the Committee on Rules from consideration of H. Res. 773, providing for the consideration of H.R. 4628, to protect consumers in managed care plans and other health coverage (Discharge Petition No. 13).

Senate Message: Messages received from the Senate today appear on pages H7865, H7868, H7939.

Senate Referrals: S. 1601 was referred to the Committees on Resources and the Judiciary; S. 2639 and S. 2436 were referred to the Committee on Education & the Workforce; and S. Con. Res. 110 was referred to the Committee on International Relations. **Page H7942**

Quorum Calls—Votes: Six yea-and-nay votes and one recorded vote developed during the proceedings of today. There were no quorum calls. **Pages H7886, H7886–87, H7887, H7888, H7933–34, H7934, H7935**

Adjournment: The House met at 10 a.m. and adjourned at 6:42 p.m.

Committee Meetings

SPECIALTY CROPS COMPETITIVENESS ACT; U.S. NATIONAL ARBORETUM APPRECIATION ACT

Committee on Agriculture: Ordered reported, as amended, the following bills: H.R. 3242, Specialty Crops Competitiveness Act of 2003; and H.R. 5120, U.S. National Arboretum Appreciation Act of 2004.

SECRET BALLOT PROTECTION ACT

Committee on Education and the Workforce: Subcommittee on Employer-Employee Relations held a hearing on H.R. 4343, Secret Ballot Protection Act of 2004. Testimony was heard from public witnesses.

MISCELLANEOUS MEASURES

Committee on Energy and Commerce: Ordered reported the following measures: S. 551, Southern Ute and Colorado Intergovernmental Agreement Implementation Act of 2003; H.R. 4667, Tapoco Project Licensing Act of 2004; H.R. 918, amended, Patient Navigator, Outreach, and Chronic Disease Prevention Act of 2003; H.R. 3051, amended, National All Schedules Prescription Electronic Reporting Act of 2003; H.R. 3858, Pancreatic Islet Cell Transplantation Act of 2004; H. Res. 567, Congratulating the American

Dental Association for sponsoring the second annual "Give Kids a Smile" program which emphasizes the need to improve access to dental care for children, and thanking dentists for volunteering their time to help provide needed dental care; H. Con. Res. 250, Recognizing community organization of public access defibrillation programs; H.R. 2699, amended, National Uniformity for Food Act of 2003; and H. Con. Res. 34, Expressing the sense of the Congress that private health insurance companies should take a proactive role in promoting healthy lifestyles.

The Committee also reported adversely H. Res. 776, Of inquiry requesting the President and directing the Secretary of Health and Human Services provide certain documents to the House of Representatives relating to estimates and analyses of the cost of the Medicare prescription drug legislation.

CONTROLLING BIOTERROR

Committee on Energy and Commerce: Subcommittee on Environment and Hazardous Materials held a hearing entitled "Controlling Bioterror: Assessing Our Nation's Drinking Water Security." Testimony was heard from Benjamin Grumbles, Acting Assistant Administrator, Water, EPA; and John B. Stephenson, Director, Natural Resources and Environment, GAO.

COMBATING INTERNATIONAL TERRORIST FINANCING

Committee on Financial Services: Subcommittee on Domestic and International Monetary Policy, Trade, and Technology and the Subcommittee on Oversight and Investigations held a joint hearing entitled "Combating International Terrorist Financing." Testimony was heard from John Zarate, Assistant Secretary, Terrorist Financing, Department of the Treasury; and E. Anthony Wayne, Assistant Secretary, Economic and Business Affairs, Department of State.

"HOW CAN WE MAXIMIZE PRIVATE SECTOR PARTICIPATION IN TRANSPORTATION?"

Committee on Government Reform: Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs held a hearing entitled "How Can We Maximize Private Sector Participation in Transportation?—Part II" Testimony was heard from Jennifer L. Dorn, Administrator, FTA, Department of Transportation; Dan Tangherlini, Director, Department of Transportation, District of Columbia; and public witnesses.

HHS FINANCIAL MANAGEMENT

Committee on Government Reform: Subcommittee on Government Efficiency and Financial Management held an oversight hearing entitled "Financial Management at the Department of Health and Human Services." Testimony was heard from the following officials of the GAO: Jeffrey C. Steinhoff, Managing Director, Financial Management and Assurance; and Keith A. Rhodes, Chief Technologist, Center for Technology and Engineering; and Kerry N. Weems, Acting Assistant Secretary, Budget, Information, and Finance, Department of Health and Human Services.

COMPREHENSIVE PEACE IN SUDAN ACT

Committee on International Relations: Subcommittee on Africa approved for full Committee action, as amended, H.R. 5061, Comprehensive Peace in Sudan Act.

MISCELLANEOUS MEASURES

Committee on the Judiciary: Ordered reported the following measures: H.R. 4306, amended, To amend section 274A of the Immigration and Nationality Act to improve the process for verifying an individual's eligibility for employment; S. 1194, amended, Mentally Ill Offender Treatment and Crime Reduction Act of 2003; H.R. 3143, amended, International Consumer Protection Act of 2003; H.R. 4264, amended, Animal Fighting Prohibition Enforcement Act of 2004; H.R. 775, Security and Fairness Enhancement for America Act of 2003; and H.R. 4453, amended, Access to Rural Physicians Improvement Act of 2004.

WEATHER AND OCEANS RESOURCES REALIGNMENT ACT

Committee on Resources: Subcommittee on Fisheries Conservation, Wildlife and Oceans held a hearing on H.R. 4368, To transfer the National Oceanic and Atmospheric Administration to the Department of the Interior. Testimony was heard from Timothy R. E. Keeney, Deputy Assistant Secretary, Oceans and Atmosphere, NOAA, Department of Commerce; Andrew A. Rosenberg, member, U.S. Commission on Ocean Policy; and public witnesses.

SURFACE TRANSPORTATION EXTENSION ACT OF 2004, PART V

Committee on Rules: Granted, by voice vote, a closed rule providing 1 hour of debate in the House on H.R. 5183, Surface Transportation Extension Act of 2004, Part V, equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. The rule waives all points of order against consideration of the bill. Finally, the rule provides one motion to recommit. Testimony was heard from Representative Petri.

CLEAN WATER ACT—CITIZEN SUIT PROVISIONS BEING MISUSED

Committee on Transportation and Infrastructure: Subcommittee on Water Resources and Environment, oversight hearing entitled ''Are Citizen Suit Provisions of the Clean Water Act Being Misused?'' Testimony was heard from public witnesses.

IMPROVE DISABILITY PROCESS—SOCIAL SECURITY PROPOSAL

Committee on Ways and Means: Subcommittee on Social Security and the Subcommittee on Human Resource held a joint hearing on the Commissioner of Social Security's Proposal to Improve the Disability Process. Testimony was heard from Representative McIntyre; Jo Anne B. Barnhart, Commissioner, SSA; Hal Daub, Chairman, Social Security Advisory Board; and public witnesses.

DISRUPTING TERRORIST TRAVEL

Select Committee on Homeland Security: Subcommittee on Infrastructure and Border Security and the Subcommittee on Intelligence and Counterterrorism held a joint hearing entitled ''Disrupting Terrorist Travel: Safeguarding America's Borders Through Information Sharing. Testimony was heard from the following officials of the Department of Homeland Security: LTG Patrick Hughes, USAF (Ret.), Assistant Secretary, Information Analysis; and C. Stewart Verdery, Jr., Assistant Secretary, Border and Transportation Security Policy and Planning; and a public witness.

Joint Meetings

NATIONAL DEFENSE AUTHORIZATION ACT

Conferees on Wednesday, September 29, 2004, met to resolve the differences between the Senate and House passed versions of H.R. 4200, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, but did not complete action thereon, and recessed subject to the call.

COMMITTEE MEETINGS FOR FRIDAY, OCTOBER 1, 2004

(Committee meetings are open unless otherwise indicated)

Senate

No meetings/hearings scheduled.

House

No committee meetings are scheduled.

Next Meeting of the **SENATE**

9:30 a.m., Friday, October 1

Senate Chamber

Program for Friday: Senate will continue consideration of S. 2845, National Intelligence Reform Act.

Next Meeting of the **HOUSE OF REPRESENTATIVES**

12:30 p.m., Monday, October 4

House Chamber

Program for Monday: To be announced.

Extensions of Remarks, as inserted in this issue

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