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

---

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. —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

---

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. 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. —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:

(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. 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